

Regulations of Connecticut State Agencies

TITLE 32. Commerce and Economic and Community Development

Agency

Department of Economic Development

Subject

Business Environmental Clean Up Revolving Loan Fund Program

Inclusive Sections

§§ 32-23z-1—32-23z-6

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Business Environmental Clean Up Revolving Loan Fund Program

Sec. 32-23z-1. Definitions

The following definitions apply to Section 1 to Section 6 inclusive of these Regulations:

(a) “Applicant” means any business which makes application to the department for a loan or line of credit in accordance with Section 6 of Public Act 89-365 and these Regulations.

(b) “Authority” means the Connecticut Development Authority.

(c) “Borrower” means any business which has been issued a commitment for a loan or line of credit in accordance with Section 6 of Public Act 89-365 and these Regulations.

(d) “Business” means any sole proprietorship, partnership, corporation or other entity in the State of Connecticut which:

(1) has been in business for a period of at least one year prior to the date of its application for a loan or line of credit;

(2) has gross revenues, including revenues of affiliates, of less than three million dollars (\$3,000,000) in the most recent fiscal year prior to the date of its application for a loan or line of credit or has fewer than one hundred fifty (150) employees; and

(3) has been doing business and has maintained its principal office and place of business in the State of Connecticut for a period of at least one year prior to the date of its application for a loan or line of credit.

(e) “Commissioner” means the commissioner of economic development.

(f) “Department” means the department of economic development.

(g) “Project Costs” mean expenses incurred in connection with the containment and removal or mitigation of property contamination including but not limited to, fees and expenses of architects, engineers, contractors and other professional consultants, expenses incurred in connection with the removal or treatment of waste and expenses incurred in connection with the purchase, installation and operation of remediation equipment.

(h) “Project” means any action taken in the remediation of property contamination.

(i) “Property Contamination” means the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous waste.

(Effective October 25, 1990)

Sec. 32-23z-2. Application requirements

(a) Each application for a loan or line of credit shall be submitted on forms prescribed by the department.

(b) No application shall be considered unless the applicant submits the following information required by such forms:

(1) evidence that the applicant is a business, as defined in Section 1 (d) of these Regulations;

(2) a letter from a professional engineer licensed pursuant to Chapter 391 of the General Statutes certifying with his professional seal that he has examined the applicant’s place of

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business, that property contamination exists and containing a brief description of the contamination including the materials, source and the potential for environmental harm;

(3) evidence of compliance with Section 22a-450 of the General Statutes, if applicable;

(4) a description of the project for which the applicant is seeking a loan or line of credit including total project costs;

(5) the amount of the loan or line of credit requested in accordance with these Regulations and Section 6 of Public Act 89-365;

(6) a history and brief description of the applicant business, including but not limited to the type of products manufactured or services performed by such business, methods of business operations and distribution of products, sales policies, present and future markets and potential customers;

(7) a resume of all directors, shareholders and senior management personnel of the applicant, which resume shall include the following information:

(A) age;

(B) business experience;

(C) length of association with the applicant;

(D) salary and other compensation; and

(E) other business affiliations;

(8) a description of subsidiaries or affiliates of the applicant business, if any, including their activities, the extent and nature of any transactions between such subsidiaries or affiliates and the applicant and the ownership interest of the applicant in such subsidiaries or affiliates;

(9) a list of the principal suppliers of the applicant, indicating the approximate percentage of total yearly purchases;

(10) a list of the principal customers of the applicant, indicating the approximate percentage of total yearly sales;

(11) a list of the principal competitors of the applicant;

(12) a description of the future expansion plans of the applicant, other than the planned use of the proceeds of the loan or line of credit, including research and development, new products, acquisitions and mergers;

(13) information concerning the employees of the applicant, including the number of employees, current hourly wage rates for each position, a description of the types of employment offered by the applicant, records of work stoppages, if any, copies of union contracts and a copy of the existing affirmative action plan of the applicant;

(14) an appraisal of the land, buildings, machinery, equipment or other property to be used to secure the loan or line of credit by an appraiser acceptable to the authority;

(15) letters of recommendation from commercial banks with which the applicant is associated, which letters shall set forth the length of the relationship between the bank and the applicant, average balances, credit experiences and an opinion concerning the management ability of personnel of the applicant;

(16) copies of fiscal year end statements for the five years preceding the date of the

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application, an interim financial statement dated within sixty (60) days prior to the application, if available, and proforma financial statements for the two years subsequent to the date of the application;

(17) a description of long term liabilities, guarantees, long term leases or contracts and other contingent liabilities, including security or liens not included in the footnotes of the corporate or personal financial statements;

(18) a description of any pending litigation;

(19) a description of any bankruptcy proceedings or compromise settlements of any litigation which occurred during the seven (7) year period prior to the date of the application;

(20) copies of any outstanding citations or orders from federal, state or local agencies regarding environmental pollution;

(21) the amount, source, terms and conditions of any other financial accommodations which will be available to the applicant business, including the applicant's own equity contribution, if applicable; and

(22) personal financial statements of all shareholders of the applicant.

(Effective October 25, 1990)

Sec. 32-23z-3. Procedures for loans or lines of credit

(a) Applications shall be reviewed and approved by the commissioner or his designee and authorized 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 of the authority.

(b) Upon approval by the commissioner and authorization by the authority, the borrower shall be issued a commitment letter which shall set forth the terms and conditions applicable to the loan or line of credit, including but not limited to the amount for which such loan or line of credit was made and approved, a description of the type and amount of security required to be provided the department, the term of the loan or line of credit, loan guaranty requirements, the rate of interest, affirmative action requirements, requirements concerning legal opinions to be submitted by the borrower's attorney, requirements concerning the provision of financial statements to the department or the authority and the permitted use of the proceeds of the loan or line of credit.

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

(d) If, upon examination of the application, supporting information and results of any investigation, the department and the authority reject such application, then the loan or line of credit shall not be made and the department shall cause the applicant to be notified that the application has been denied.

(Effective October 25, 1990)

Sec. 32-23z-4. Loans and lines of credit

(a) The loan or line of credit may be secured or unsecured as the authority determines to

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be appropriate under the particular circumstances. If the loan or line of credit is to be secured, the authority may require the borrower to provide the department as security mortgages or security interests in any or all of the following: real property, accounts, chattel paper, documents, instruments, general intangibles, goods, equipment, inventory or other personal property. The authority may further require the borrower to have executed and delivered to the department security agreements, financing statements, mortgages, pledges, assignments, subordinations, guarantees or other documents or evidence of security as and in the form required by the authority.

(b) The term of a loan or line of credit shall not exceed ten (10) years from the date of the first disbursement.

(c) No loan or line of credit provided to any single business shall exceed a total of two hundred thousand dollars (\$200,000) in any period of twelve consecutive months.

(d) The loan or line of credit shall be repaid on an amortized schedule of payments or upon such other method of payment of principal and interest as the authority considers necessary or appropriate in the particular circumstances, but in no event shall the payments be scheduled to exceed ten (10) years from the date of the first disbursement, as set forth in Section 4 (b) of these Regulations.

(e) Disbursement of the loan or line of credit shall be made at the discretion of the commissioner in accordance with the provisions of the commitment letter and the instructions of the authority.

(Effective October 25, 1990)

Sec. 32-23z-5. Note

(a) Each loan or line of credit shall be evidenced by a promissory note which shall contain a provision permitting the borrower to prepay the loan in whole or in part upon any interest payment date.

(b) The promissory note shall provide for the payment of interest at a rate not to exceed prime plus one percent (1%) as designated by the Wall Street Journal, at the time of closing. In determining such interest rate the department and authority shall consider factors such as the financial strength of the borrower and loan guarantors, if any, and the amount of security provided by the borrower.

(c) The promissory note may provide for the collection of a late charge, not to exceed two percent of any installment which is not paid within ten days of the due date thereof. Late charges shall be separately charged to and collected from the borrower.

(Effective October 25, 1990)

Sec. 32-23z-6. Default and remedy

(a) The failure of the borrower to abide by the terms of the commitment letter, promissory note or other document delivered by the borrower to the authority or the department in connection with a loan or line of credit shall be considered a default under such promissory note.

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(b) The promissory note shall contain a provision that the failure of the borrower to make a payment of principal or interest due under the promissory note within fifteen days from the due date shall constitute a default.

(c) The promissory note shall provide that upon default, any and all sums owing by the borrower under the promissory note shall, at the option of the commissioner, become immediately due and payable.

(d) The promissory note shall contain a provision that it shall be an event of default if the project, as proposed or constructed, fails to comply with all federal, state and local health, environmental and safety laws and regulations.

(e) The promissory note shall provide that upon default, interest on the promissory note shall automatically increase two percent per annum above the rate of the promissory note and such increased interest rate shall apply not only after default, but after any judgement rendered upon said promissory note.

(f) The promissory note shall provide for payment of reasonable attorneys fees and legal costs in the event the borrower shall default in the payment of the note.

(g) The promissory note shall contain such other clauses and covenants as the commissioner in his discretion may require for the purpose of protecting the financial investment made by the state.

(Effective October 25, 1990)