



Title 6: Economic Development

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Title 6: Economic Development

Part 1: Financial Resources

Part 1 Chapter 1: Job Protection Program

Rule 1.1 Qualified Companies Eligible for the Job Protection Program. A company must qualify as an at-risk industry to receive assistance under the Job Protection Program. An at-risk industry (“At-Risk Industry”) is a company that has been operating in the State for not less than three (3) consecutive years. The company must have lost jobs or is at-risk of losing jobs because they have been outsourced. These jobs or the work to be performed by the company have been sent to an overseas provider or manufacturer located outside of the United States. The company must be financially sound, present evidence that the company can repay any debt and must not have defaulted on any previous loan from the State or Federal Government.

Source: Miss. Code Ann. § 57-9-1 (Rev. 2008)

Rule 1.2 Eligible Projects. Loan funds may be used for land, building and depreciable fixed assets. Loan proceeds may not be used for working capital, debt refinancing or rolling stock.

Source: Miss. Code Ann. § 57-9-1 (Rev. 2008)

Rule 1.3 Financing Restrictions for the Job Protection Program. Job Protection Program assistance may be in the form of a grant, loan, or a loan and grant combination. However, the amount of grant, loan, or a loan and grant combination, shall not exceed fifty percent (50%) of the total cost of the project. The maximum grant amount is \$200,000. The maximum loan amount is \$800,000 while the minimum amount loaned is \$200,000. The maximum grant and loan combination is \$800,000. The term on the loan shall be ten (10) years maximum or the determined useful life of the project to be financed. The rate of interest will be based on the most recent twenty (20) year general obligation bond issued by the State. Other State finance programs, to include Community Development Block Grants, may not be used to finance the remaining cost of the project.

- A. Conditions. An existing company that accepts a grant or loan shall not reduce employment by more than twenty percent (20%) through the use of the project for which the grant or loan is provided. The company must inject a minimum of ten percent (10%) equity into the project. The company must document to the satisfaction of MDA that it is an At-Risk Industry.
- B. Loan Repayments. Principal and interest payments will be due on a monthly basis, with a fixed amount to be paid over the life of the loan.
- C. Security. Each loan will be secured by a lien of such type that provides adequate security for MDA to recover its investment in case of default on the loan. Liens may be in the form of personal guarantees, liens on the equipment installed or security interest in other assets. It should be noted MDA will require a one percent (1%) good faith deposit on all projects. Individuals or entities with twenty percent (20%) or more ownership in the company will be required to provide personal guarantees and life insurance.

Source: Miss. Code Ann. § 57-9-1 (Rev. 2008)

Rule 1.4 Application Requirements. The application to be submitted by a company must include:

- A. Documentation that the Company is an At-Risk Industry;
- B. The purpose of the proposed loan including a list of eligible items and the cost of each;
- C. Documentation on how the financing of the project will improve productivity and competitiveness;
- E. The estimated cost of the total project with a detailed breakdown of all public or private sources of funding;
- F. The time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
- G. Submit company balance sheets, income statements and statements of cash flow for the previous three (3) fiscal years and current statements dated within ninety (90) days of application or three (3) years of tax returns;
- H. A two (2) year business plan for the project;
- I. List of principal stockholders, partners, or parties who have ownership of twenty percent (20%) or more.

Source: Miss. Code Ann. § 57-9-1 (Rev. 2008)

Rule 1.5 Additional Application Requirements. MDA may require additional information as needed. Two (2) copies of the application must be submitted.

Source: Miss. Code Ann. § 57-9-1 (Rev. 2008)

Rule 1.6 Establishment of Process for Disbursement of Funds, Reimbursements and Loan Closings. Based upon the terms and conditions established by MDA, MDA will prepare all security and loan documents, including but not limited to, the Loan Agreement and Promissory Note, (collectively "Loan Documents"). Prior to disbursement of any funds, all Loan Documents must be fully executed. The Borrower will also be responsible for paying for all costs associated with the closing of the loan, including document preparation, title searches and filing fees.

A. *Grant Closings.* MDA will provide all documents needed to close the grant upon full approval and presentation of all required information

B. *Reimbursement Process.* The MDA will release loan and grant funds on a reimbursement or services rendered basis for approved eligible costs of the project as incurred. The At-Risk Industry shall certify to MDA that the expenses were incurred and were in accordance with the project as approved by MDA. Funds will be released periodically upon receipt of supporting documentation from the Borrower based upon a schedule established by MDA.

Source: Miss. Code Ann. § 57-9-1 (Rev. 2008)

Rule 1.7 Responsibility for Audits and Waivers. Loans and grants made under the Job Protection Loan Program are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-9-1 (Rev. 2008)

Rule 1.8 Waiver. These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State Law.

Source: Miss. Code Ann. § 57-9-1 (Rev. 2008)

Part 1 Chapter 2: Advantage Jobs Incentive Program

Rule 2.1 Purpose. The Mississippi Advantage Jobs Incentive Program (“Advantage Jobs”) provides for a cash rebate to qualified employers for a period of up to ten years. This program is designed to assist qualified companies that promise significant development of the economy of the State of Mississippi (State) through the creation of quality jobs.

Source: Miss. Code Ann. § 57-62-13 (Rev. 2008)

Rule 2.2 Participation. To receive this incentive, interested companies must submit an application to the Mississippi Development Authority (“MDA”). Upon approval, an Advantage Jobs Incentive Certificate (“Certificate”) will be issued that documents the terms of the rebate program. Once the approved company has met all requirements, the Mississippi State Tax Commission (“Tax Commission”) must be notified. After four quarters of program compliance, the Tax Commission will begin to make rebate payments to the company. Payments will continue for ten years, assuming that all requirements are maintained.

Source: Miss. Code Ann. § 57-62-15 (Rev. 2008)

Rule 2.3 Eligible Companies. In order to receive benefits under the Advantage Jobs program, a company must be able to demonstrate that the creation of proposed jobs will provide a direct benefit to the State. To qualify, the company must meet the following requirements:

- A. Any business except retail and gaming establishments that provide an average annual wage of 125% of the county or state wage, whichever is less. The enterprise must create and maintain a minimum of 10 new full-time jobs in a Tier Three county, or 25 new full-time jobs in a Tier One or Two county;
- B. Data or information processing enterprises that provide an average annual wage of 100% of the county or state wage, whichever is less. The enterprise must create at least 100 new full-time jobs in a Tier Three county or 200 new full-time jobs in a Tier One or Two county;
- C. Manufacturing and distribution enterprises that provide an annual average wage of 110% of the county or state wage, whichever is less. The enterprise must invest at least \$20,000,000 in land, buildings, and equipment and create at least 20 new, full-time jobs in a Tier Three county or 50 new full-time jobs in a Tier One or Two county;
- D. Research and development enterprises that provide an annual average wage of 150% of the state or county wage, whichever is less. The enterprise must create at least 10 new, full-time jobs; or

E. Technology intensive enterprises that provide an annual average wage of 150% of the state wage. The enterprise must create at least 10 new, full-time jobs.

Source: Miss. Code Ann. § 57-62-15 (Rev. 2008)

Rule 2.4 Qualifications. The average annual wage is the total employee earnings subject to Mississippi personal income taxes, including bonuses and overtime. All jobs at the approved facility must be included in the calculation of the company's average wage when determining whether the wages paid meet the required state or county thresholds. All jobs are also included in the calculation to determine whether program requirements are being met. The new jobs may be created due to a new business enterprise or an expansion of an existing business, as long as the company meets the minimum criteria set forth by the MDA. To qualify, the jobs must not have existed in this state before the date of approval by the MDA of the Advantage Jobs application. Additionally, any business entity that qualifies for the Advantage Jobs Incentive Program must also:

- A. Provide, or plan to provide to any new employees, a basic health benefit plan. Such plan must be in effect within 180 days of receiving any incentives.
- B. Meet jobs creation and wage requirements within twenty-four (24) months of the issuance of an Advantage Jobs Incentive Certificate ("Certificate").
- C. Provide the Mississippi Development Authority with a performance agreement that outlines how the rebate will be used.

Source: Miss. Code Ann. § 57-62-9 (Rev. 2008)

Rule 2.5 Ineligible Industries. The following industries do not qualify for the Advantage Jobs Incentive Program:

- A. Gaming: any gaming company that is regulated and/or subject to regulation by the State Gaming Commission cannot receive the Advantage Jobs Incentive.
- B. Retail: any business or industry that buys a product and resells it without changing the form of the product is considered a retail establishment and cannot receive the Advantage Jobs Incentive.
- C. Professional Services: professional establishments that provide services such as legal, medical, financial, or accounting with offices open to the public do not qualify for this incentive.
- D. Telecommunications: any business that operates as a commercial broadcast radio station, television station, or news organization primarily serving in-state markets is not qualified to participate on the rebate program.

Source: Miss. Code Ann. § 57-62-9 (Rev. 2008)

Rule 2.6 Net Economic Benefit. The amount of the Advantage Jobs rebate is tied directly to the net economic benefit received by the state. This net benefit is shown as a Mississippi percentage of payroll that, based on the number of jobs and average annual salary estimates provided by the company, is allowable given the economic impact of the project. The net economic benefit is the lesser of:

- A. The qualified employees' state personal income tax withholding;
- B. A cost/benefit analysis prepared by MDA (the net benefit rate and the cumulative estimated net direct state benefit); or
- C. A legal maximum of 4%.

Once the company has met all eligibility requirements, it must notify the Tax Commission. The Tax Commission will insure that the company has complied with all program requirements for four quarters.

Source: Miss. Code Ann. § 57-62-9 (Rev. 2008)

Rule 2.7 Rebate Payments. After the company has remained in compliance for four consecutive quarters, rebate payments will begin. The amount of rebate paid is calculated by multiplying the amount placed in the fund by:

- A. 90% if the annual average wage is at least 175% of the county or state wage, whichever is less;
- B. 80% if the annual average wage is at least 125% and less than 175% of the county or state wage, whichever is less; or
- C. 70% if the annual average wage is less than 125% of the county or state wage, whichever is less.

If the business or industry does not maintain jobs and salary requirements at any point after the date the first rebate payment is made, incentive payments will stop and will not resume until all requirements are again met or exceeded for one calendar quarter, to the satisfaction of the Mississippi State Tax Commission.

Source: Miss. Code Ann. § 57-62-15 (Rev. 2008)

Rule 2.8 Acquisition of Existing Facilities and Net Economic Benefit. In connection with the acquisition of assets or facilities existing within the State at or prior to the acquisition date, no benefit under the Advantage Jobs Program will be available, except under the following circumstances:

- A. A formal decision to close the existing facility by the seller must have been announced by means of a notice ("WARN Notice") delivered in the manner prescribed in the Workers Adjustment and Relocation Act, 29 U.S.C. Section 2101 and following. Other substantially similar formal, verifiable evidence that confirms a decision to close the existing facility may also be considered; and
- B. The purchaser must provide a letter to the MDA stating that without the benefits available under and pursuant to the Advantage Jobs program, the purchaser would be unwilling to purchase the facility or assets; and
- C. The equity owners of the seller may not have effective voting control, directly or indirectly, of the purchaser for a period of not less than ten (10) years, and under no circumstances may the equity owners of the seller during such period own more than twenty-five percent (25%) of the equity interest of the purchaser.

The Advantage Jobs benefits offered, if any: (a) shall be based on the facts and circumstance of each case, (b) shall be subject to review and approval by the Executive Director of MDA and (c) shall be subject to any conditions imposed by the Executive Director in addition to or in lieu of the conditions stated above.

Source: Miss. Code Ann. § 57-62-15 (Rev. 2008)

Rule 2.9 Advantage Jobs Application Process. All Advantage Jobs program documents may be obtained from MDA. To apply, three (3) copies of a completed Advantage Jobs Application (“Application”) must be submitted to MDA. A shall conduct a cost benefit analysis as prescribed by the Act. MDA has the sole discretion to qualify a company for benefits under the Advantage Jobs Program. Upon approval of an Application, MDA will issue an Advantage Jobs Incentive Certificate (“Certificate”). Such Certificate will establish the minimum average salary (“Salary Base”), number of jobs (“Job Base”), and the estimated net direct state benefit allowed. Once the approved company has met all requirements including jobs and salaries, qualified companies must file a claim with the Mississippi State Tax Commission. The company must specify the actual number of full-time jobs created and maintained by the company and provide the gross payroll in order to receive payment. The company must provide all information necessary to substantiate that requirements are being met to the satisfaction of the State Tax Commission. The company will be required to provide periodic reports to show continued eligibility and may be subject to audit. After four consecutive quarters of program compliance, rebates will begin to be paid by the Mississippi State Tax Commission. A qualified company may receive quarterly incentive payments for up to 10 years from the Tax Commission. The company will have 24 months from the date of the Certificate to meet the terms established under such Certificate.

Source: Miss. Code Ann. § 57-62-15 (Rev. 2008)

Rule 2.10 Amendments and Waivers. Advantage Jobs is administered by the Mississippi Development Authority (“MDA”) and the Mississippi State Tax Commission (“Tax Commission”) pursuant to Section 57-62-1 et seq., Mississippi Code of 1972, as amended. These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of these guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State laws.

Source: Miss. Code Ann. § 57-62-15 (Rev. 2008)

Part 1 Chapter 3: Mississippi Existing Industry Productivity Loan Program

Rule 3.1 Purpose. The Mississippi Existing Industry Productivity Loan Program (“Existing Industry Loan Program”), administered by the Mississippi Development Authority (“MDA”) is designed for making loans to existing industries or to local governmental entities to assist existing industries to deploy long-term fixed assets through new technology, which will improve productivity and competitiveness and for purchasing or refinancing land, buildings or equipment. Funding for this program is derived from state general obligation bonds.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.2 Eligible Projects. Loan funds can be used to finance long-term fixed assets (“Fixed Assets”) or refinance land, buildings and equipment, provided that the company can demonstrate

that refinancing is necessary to maintain or expand the facility. This financing is for are assets which, through new technology, will improve productivity and competitiveness of the company. The benefits of such asset will have to be documented. Loan proceeds may not be used for working capital or rolling stock.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.3 Qualified Borrower

A. Companies - To obtain assistance under the Existing Industry Loan Program, the company must be a manufacturing enterprise that has operated in the State for not less than two (2) consecutive years. A manufacturing enterprise is one that is exclusively or predominately engaged in activities of an industrial or commercial nature wherein labor or skill is applied by hand or machinery, to materials belonging to the manufacturer so that a new, different, or more useful article is produced for sale. The company must be financially sound, present evidence that the company can repay the debt, and must not have defaulted on any previous loan from the State or Federal Government.

B. Qualified Borrowers – Local Government Entities. Counties or incorporated municipalities may apply for a loan fund to assist a manufacturing enterprise in deploying long-term fixed assets.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.4 Loan Conditions. An existing company that accepts a loan shall not reduce employment by more than twenty percent (20%) through the use of the long term fixed assets for which the loan is provided. The company must inject a minimum of up to ten percent (10%) equity into the project.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.5 Loan Terms. The maximum amount of a loan shall not exceed \$2,000,000 while the minimum amount is \$250,000. The term of the loan shall be the determined useful life of the asset to be financed or twenty (20) years, whichever is less. The rate of interest on a loan will be at a fixed rate. The base rate will be 200 basis points over the Wall Street Journal Prime Rate with a floor of three percent; however, the rate of interest can be adjusted an additional 200 basis points above or below the base rate depending on the credit risk e.g. (collateral, loan terms, company's financials) associated with each loan.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.6 Loan Repayment. Principal and interest payments will be due on a monthly basis, with a fixed amount to be paid over the life of the loan.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.7 Liens. Each loan will be secured by a lien to provide adequate security for MDA to recover its investment in case of default on the loan. Liens may be in the form of personal

guarantees, liens on the equipment installed or a security interest in other assets. It should be noted MDA will require a one percent (1%) good faith deposit on all loan applications. Individuals or entities with twenty percent (20%) or more ownership in the company will be required to provide personal guaranties and life insurance. Local governmental entities applying for loans under this section shall pledge for repayment its homestead exemption annual tax loss reimbursement or sales tax revenue, respectfully.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.8 Requirements for Loan Application Submission by a Company. The application to be submitted by a company must include:

- A. The purpose of the proposed loan including a list of eligible items and the cost of each;
- B. Documentation on how the financing of the Fixed Assets will improve productivity and competitiveness;
- C. The estimated cost of the total project with a detailed breakdown of all public or private sources of funding;
- D. The time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
- E. Company balance sheets, income statements and statements of cash flow for the previous three (3) fiscal years and current statements dated within ninety (90) days of application and/or three (3) years of tax returns;
- F. A two (2) year business plan for the project;
- G. List of principal stockholders, partners, or parties who have ownership of twenty percent (20%) or more.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.9 Requirements for Loan Application Submission by a Local Government Entity. The applications submitted by a local government entity must include the same information for the company that would be submitted if the company applied plus the following:

- A. Certified proof of publication of the Resolution of Intention of the government entity to apply for an Existing Industry Loan Program. The Resolution must be published once a week for at least four (4) consecutive weeks in a newspaper having general circulation in the county.
- B. Upon receiving the results of the publication of the Resolution of Intention, the government entity will need to provide MDA with an execution Resolution of No Protest.
- C. Most recent audited financial statements.

MDA may require additional information as needed. Two copies of the application must be submitted.

Source: Miss. Code Ann. § 57-93-1 (Re. 2008)

Rule 3.10 Process for Disbursement and Reimbursement of Funds. Based upon the terms and conditions established by MDA, MDA will prepare all security and loan documents, including but not limited to, the Loan Agreement and Promissory Note, (collectively “Loan Documents”).

Prior to disbursement of any funds, all Loan Documents must be fully executed. The Borrower will also be responsible for paying for all costs associated with the closing of the loan, including document preparation, title searches and filing fees.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.11 Reimbursement Process. The MDA will release loan funds on a reimbursement or services rendered basis for approved eligible costs of the project as incurred. The Borrower shall certify to MDA that the expenses were incurred and were in accordance with the project as approved by MDA. Funds will be released periodically upon receipt of supporting documentation from the Borrower based upon a schedule established by MDA.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.12 Audit. Loans made under the Existing Industry Loan Program are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Rule 3.13 Waiver. These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State Law.

Source: Miss. Code Ann. § 57-93-1 (Rev. 2008)

Part 1 Chapter 4: Agribusiness Enterprise Loan Program

Rule 4.1 Purpose. The Agribusiness Enterprise Loan Program ("ABE"), to be administered by the Mississippi Development Authority ("MDA"), is a loan program designed to encourage the extension of conventional financing and the issuance of letters of credit, by private institutions, to agribusiness enterprises in the State of Mississippi ("State"). MDA will provide interest-free loans to qualified borrowers engaged in the production, manufacturing, and processing of agribusiness related goods and services. The following guidelines set out the requirements under the program, and MDA reserves the right to make changes to these guidelines and to waive any restriction not set by statute.

Source: *Miss. Code Ann. § 69-2-13.*

Rule 4.2 Definitions.

- A. Agribusiness means any aqua cultural, horticultural, greenhouse production or agricultural related industrial, manufacturing, research and development or processing enterprise located in the State and owned by a resident of the State. The agribusiness must be creditworthy and demonstrate the ability to repay the loan and must not have defaulted on any previous loan from the State or Federal Government.

- B. Lender means any commercial bank, savings bank, federal land bank, farm credit bank, agricultural credit association or other farm credit agency, which is domiciled or qualified to do business in the State.

Source: *Miss. Code Ann.* § 69-2-9.

Rule 4.3 Guaranties. Each Agribusiness Enterprise Loan ("ABE Loan") must be 100% guaranteed to MDA by an eligible Lender.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.4 Application Process. An eligible Lender must originate the ABE Loan application for an agribusiness.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.5 Servicing Agreement. The Lender must provide MDA with a Servicing Agreement Letter to be accepted upon approval of the ABE Loan.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.6 Loan Closing Documents. The Lender must provide, in writing, all required information for the preparation of ABE Loan closing documents. All closing documents must be properly executed and returned to MDA immediately. All exhibits to the closing documents must be filed and copies sent to MDA no later than thirty (30) days from the date of closing.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.7 Loan Servicing Fees. The Lender may charge an agribusiness a servicing fee, which may not exceed one percent (1%) of the ABE Loan amount. The fee will be a one-time charge collected when the ABE Loan is closed. The fee may be paid directly by the agribusiness, deducted from the ABE Loan proceeds, or financed as part of the Lender's loan. The Lender shall also be responsible for collecting and remitting to MDA, at loan closing, a servicing fee which represents one percent (1%) of the ABE Loan. The Lender shall be responsible for servicing the ABE Loan, which will include all repayments to MDA. The Lender will also enforce the terms and conditions of all closing documents executed for the ABE Loan.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.8 Loan Proceeds. ABE Loan proceeds may be used to finance buildings and equipment and for costs associated with the purchase of land (appraisals, title searches, etc.). However, proceeds cannot be used to purchase land. ABE funds to new or existing poultry farms for the construction of new or additional houses will be governed by terms, conditions, and requirements pursuant to Terms and Conditions for Loan Proceeds pursuant

to Rule 3.2.

Source: *Miss. Code Ann. § 69-2-13.*

Rule 4.9 Terms and Conditions for Loan Proceeds. The following terms, conditions and requirements must be satisfied by the terms of each poultry farm loan for the construction of new or additional poultry houses for said loan to be eligible for participation in this ABE program:

- A. All live birds must be weighed by a bonded weighmaster on certified scales. Said procedure may be witnessed by a producer or family member with proper identification. This subsection A does not apply to loans for pullet and breeder houses.
- B. All feed must be weighed by a bonded weighmaster on certified scales. Said procedure may be witnessed by a producer or family member with proper identification.
- C. Producers shall be provided by Processor with copies of all documentation that impact producer's settlement payment. Said documentation shall include, but not be limited to:
 - 1. Producer's copy of USDA Form 9061-2;
 - 2. Loading ticket, at time of catching, containing truck number, trailer number, number of birds per coop, and number of full coops;
 - 3. Copy of weight tickets for live birds;
 - 4. Copy of medication charges either at delivery or with settlement payments; and
 - 5. Copy of sample computation of payment formula, which shall use producer's actual figures.
 - 6. This subsection C does not apply to loans for pullet and breeder houses.
- D. Processor must use all available means to ensure proper handling of birds from farm to plant and processor will be responsible for damage or theft caused by catching crew to producer's equipment of facilities.
- E. Equipment changes, on equipment in good working order, shall be the basis for density cuts or termination of a contract only when the health and safety of the birds are an issue
- F. Equipment changes required on processor approved equipment that is in good working order shall only be made when accompanied by processor incentives.

- G. Processors shall test, upon request of producers, new equipment that producers wish to add to the processor approved equipment list.
- H. Producers and their immediate family who are employed by the processor in live production shall not be ranked with other contract producers.
- I. A producer's settlement payment shall not be affected by his membership in any organization or association.
- J. Upon request by a producer, the processor shall furnish to the producer a copy of any veterinary report related to producer's flock within forty-eight (48) hours of receipt of said report, where such report is available.
- K. Processor shall share with producer all known information and causes which are connected to problematic situations that affect farm management, including parent stock and age.
- L. Processor shall provide to producer information on feed delivery procedures.
- M. When requested, feed delivery trucks will be sealed at the plant with corresponding, numbered seals that will be listed on the feed delivery ticket. The grower may request that he be notified by telephone before the truck leaves the feed mill. The seal will not be broken unless the grower is not available at the time of scheduled delivery.
- N. The processor shall provide the applicable written guidelines for broiler, pullet or breeder management.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.10 Use of Loan Proceeds. No loan proceeds shall be used to pay off any existing debt for loan consolidation purposes; to finance acquisition, construction, improvement, or operation of real property which is primarily for sale or investment; to provide or free funds for speculation in any kind of property or as a loan to owners; nor to provide working capital.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.11 Maximum Loan Amount. The amount of a loan to any single agribusiness shall not exceed twenty percent (20%) of the total cost of the project or \$250,000, whichever is less. Upgrades for the retrofitting of poultry houses shall not exceed thirty percent (30%) of the total cost of the project or \$250,000, whichever is less. Land purchases will not be considered in the total cost of the project when determining an ABE Loan. In addition, an existing agribusiness (one that has been in business for a minimum of the previous twenty-four (24) months at the time of application) upon use of their initial \$250,000, is eligible to receive an ABE Loan or loans.

For the purpose of assisting such agribusiness to make upgrades, renovations, repairs and

other improvements to their equipment, facilities and operations, which shall not exceed \$250,000 or thirty percent (30%) of the total cost of the project for which financing is sought, whichever is less. The maximum aggregate amount of ABE loans to any one existing agribusiness shall not be more than \$500,000.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.12 Interest on an ABE Loan. No interest will be charged on an ABE Loan. Only the amount actually loaned to an agribusiness shall be required to be repaid to the State.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.13 Term of the ABE Loan. The term of the ABE Loan shall match the term of the Lender's loan, up to the maximum maturity of fifteen (15) years.

Source: *Miss. Code Ann.* § 69 2-13.

Rule 4.14 Disbursements. Disbursements of ABE funds will be made to Lenders on behalf of borrowers after project construction is completed. Requests for payment must be submitted on the MDA Request for Payment Form, which will be provided by MDA.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.15 Repayment of Funds. All repayments of ABE funds to MDA shall match the repayments of the borrower to the Lender and shall be submitted upon the terms stated in the Lender's Authorization forms.

- A. If a Lender collects payments on more than one ABE Loan, MDA will allow a lump sum payment on all outstanding loans. An itemized list of the source of funds, including ABE Loan numbers, must accompany this payment. Lenders must submit all collections for a one-month period by the fifth of the following month.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.16 Agreements Required for ABE loans. ABE Loans are subject to an agreement, providing that any and all outstanding obligations may be accelerated and payments called for if, during the term of the loan, any change of ownership or control of the agribusiness concern occurs without the prior written consent of MDA, or if any adverse change occurs without notification to MDA.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.17 Notification of Prepayment. The Lender shall notify MDA in writing of any prepayments of the Lender's loan. If the Lender's loan is to be paid in full, the MDA portion

of the loan must be paid off first. MDA and the Lender must determine the application of partial payments.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.18 Prohibition Against the Sale, Assignment or Conveyance of Loan and Note. The Lender's Loan and Note is prohibited from being sold, assigned, conveyed, sub-participated, subdivided, encumbered or otherwise transferred.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.19 Default. MDA will consider any loan that has become delinquent, in amount equal to the required annual payment, to be in default.

Source: *Miss. Code Ann.* § 69-2-13.

Rule 4.20 Compliance with Federal Immigration Laws and Mississippi Employment Protection Act. Companies are required to ensure compliance with the Mississippi Employment Protection Act ('MEPA). *Miss. Code. Ann.* § 71-11-3 *et seq.* and must register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein. "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Companies must maintain records of such compliance and, upon request of the State of Mississippi and approval of the Social Security Administration or Department of Homeland Security, where required. to provide a copy of each such verification to the State. Any person assigned to perform services must meet the employment eligibility requirements of all federal and state immigration laws. Any breach may subject the company to the following: (a) termination of the Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years. with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to the company by an agency. department or governmental entity for the right to do business in Mississippi for up to one (1) year. or (c) both. In the event of such termination/cancellation, the company would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

Source: *Miss. Code Ann.* § 71-11-3: *Miss. Code Ann.* § 57-1-371: *Miss. Code Ann.* § 57-1-373.

Adopted: September 12, 2025

Part 1 Chapter 5: Workforce Training Fund

Rule 5.1 Purpose. The Mississippi Development Authority (MDA) Workforce Training Fund was established by the State Legislature during the Second Extraordinary Session in 2010. The purpose of the MDA Workforce Training Funds is to provide workforce training through state

institutions of higher learning, community and junior colleges, and Workforce Investment Network job centers, referred to in this document as Training Providers, to meet workforce training needs not met by other resources. The funds shall be used to effectively retain and keep businesses competitive through skills training and upgrades for new and existing full-time employees. The program is structured to be flexible to meet the training objectives of a business or a group of businesses. Training Providers are encouraged to use these grants in connection with training funded from Federal, State, and other sources.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.2 Eligible Applicants. Applications for assistance must be submitted by a state institution of higher learning, a public community or junior college, or the administrative entity for a Workforce Investment Area on behalf of a Workforce Investment Network (WIN) Job Center (Training Providers).

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.3 Eligible Businesses.

- A. Existing - For-profit businesses that have been in operation for a minimum of one year prior to the application date, are current on all federal and state tax obligations, and are financially viable are eligible to apply.
- B. New - For-profit businesses that have been in operation for less than one year prior to the application date, are current on all federal and state tax obligations, are financially viable and have an adequate two-year business plan are eligible to apply.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.4 Eligible Projects. Eligible projects must meet critical training needs of a specific business (Requesting Business) to train new or existing employees in skills necessary for the operation of the business. MDA Workforce Training funds should be used to maximize existing training resources available through the Workforce Enhancement Training Funds, the Workforce Investment Act and other sources. The training provider and affected business or group of businesses must demonstrate that the training is not eligible for or has exhausted funding through these or other existing programs. Applications must include documentation that the requested funding is not available from other training resources. The MDA Workforce Training Fund shall be available for, but not limited to, the following industry sectors:

- A. Aerospace
- B. Clean and Renewable Energy
- C. Data Services
- D. Defense
- E. Logistics
- F. Manufacturing and Processing
- G. Tourism

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.5 Funds Ineligible for Certain Projects. MDA Workforce Training Funds may not be used to provide the following:

- A. Proprietary management training packages such as DDI, VitalEdu, Achieveglobal, Plexus, ISO-9000, QS-9000, ISO-14000-01, Zig Ziglar, Phi Theat Kappa Leadership, and Stephen Covey; and
- B. Training to a gaming enterprise

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.6 Project Requirements. The following types of training may be funded:

- A. Occupational skills training designed to meet the special requirements of a business or a group of businesses and conducted with employer commitment to continue to retain all trained individuals upon successful completion of the training;
- B. Educational training including, but not limited to, workplace literacy, basic skills, soft skills, and English as a second language;
- C. Training in strategies to improve efficiency of business operations

An applicant must demonstrate the planned effect of the proposed training on business operations and identify any transferable skills to be acquired by the employees.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.7 Application Requirements.

A. Any business or industry desiring additional training assistance from a state institution of higher learning, a public community or junior college, or the administrative entity for a Workforce Investment Area on behalf of a Workforce Investment Network (WIN) Job Center, hereafter referred to as Training Providers, under this section shall work with the Training Provider to complete and submit an application consisting of the information listed below. Applications to MDA will be made by the Training Provider and shall include the items requested below. The standard cover sheet included with application;

1. A letter from the Requesting Business to the Training Provider that request the training and describes how the training will meet a critical need to train new or existing employees in skills necessary for the operation of the business;
2. A description of the need and purpose for which the training assistance is requested;
3. A description of how the proposed training is consistent with MDA's workforce training priorities described on page 2 of the guidelines at section 2.c;
4. A description of the training to be delivered, the training objectives and how the funds will be used to meet the objectives;
5. A statement of the number and types of jobs to be trained, identifying the number of new and the number of existing employees to receive training;
6. A detailed description and supporting documentation of the steps taken to access or utilize other resources and documentation that such resources are not available to meet the need;
7. A detailed description of the total training project costs, supported by a line-item cost estimate;

- 8. A proposed schedule for the planning, provision and completion
- 9. Any other information required by MDA
- B. The MDA shall have sole discretion in the awarding of WTF funds, provided that the application has met the statutory requirements of this section and that funds are available.
- C. An electronic and one paper copy of the application must be submitted to MDA. MDA will evaluate the application to determine if the project meets the program Criteria. Please allow a minimum of 30 days for the application to be reviewed and the Grant Agreement to be finalized.
- D. A grant agreement will be executed between the Training Provider and MDA. The Grant Agreement cannot be executed until all required conditions in these guidelines have been met and all documentation has been received.
- E. If adequate funding is not available from other sources, the Requesting Business will work with the applicable Community or Junior College, Workforce Investment Board or Institution of Higher Learning to complete the MDA Workforce Training Application.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.8 Maximum Dollar Amount. The maximum amount for MDA Workforce Training Funds that may be provided for any one project is \$100,000.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.9 Reimbursement Training Expenses.

- A. Instructor or trainer salaries or tuition
- B. Curriculum development
- C. Textbooks/manuals
- D. Wage reimbursements: WIN Job Center, on-the-job training, and internships only.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.10 Conditions. A Grant Agreement will be executed between the Training Provider and MDA. The Grant Agreement cannot be executed until all required conditions in these guidelines of the application are met and all documentation is received.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.11 Process. MDA will release Workforce Training funds on a reimbursement basis for approved eligible costs of the project as incurred. Funds will be released upon receipt of the Workforce Training Reimbursement Requisition and supporting documentation from the Training Provider. Funds may not be drawn down more frequently than once per month. Training Provider has three months from the last date training as agreed to in the Grant Agreement to request reimbursement for training project costs.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.12 Monitoring and Auditing. MDA may monitor all projects to ensure compliance with the original application and the Grant Agreement. Funds provided under MDA Workforce Training Funds are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.13 Project Performance. The State Workforce Investment Board (SWIB) has created a centralized location for workforce and economic information of the state. The SWIB Data Center provides access to high-quality, timely, and relevant information that supports everyday decision making and strategic planning in Mississippi. MDA Workforce Training Funds program performance shall be tracked in that center. The training provider must maintain and transfer reliable project participant information and datasets into the SWIB Data Center as prescribed in the Grant Agreement.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Rule 5.14 Waiver. These guidelines may be amended by MDA at any time. MDA, at its discretion, may waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State law.

Source: Miss. Code Ann. § 57-1-401 (Rev. 2008)

Part 1 Chapter 6: Farish Street Historic District Loan Program

Rule 6.1 Guidelines. The Farish Street Historic District Loan Program (“FSLP”), administered by the Mississippi Development Authority (“MDA”), is designed to make grants available to the Central Mississippi Planning and Development District (“CMPDD”) for the purpose of making low interest loans to persons or entities to develop certain property in the Farish Street Historic District (“District”).

Source: Senate Bill 3194, 1999 Regular Session, Section 2(3)(a), as amended by Chapter 533 Laws of 2010.

Rule 6.2 Eligibility. To be eligible for funding under the program, a person or entity must submit an application provided by the Mississippi Department of Archives and History (“MDAH”) along with plans for the proposed project to MDAH for review. MDAH must determine that the proposed project conforms to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. MDAH shall also obtain a positive opinion regarding the proposed project from the Farish Street Neighborhood Historic District Foundation (“the Foundation”). Upon approval of a project (“the Project”), MDAH shall notify CMPDD of its approval in writing.

Source: Senate Bill 3194, 1999 Regular Session, Sections 2(3)(a), 3(1)(a)-(e), 3(2)as amended by Chapter 533 Laws of 2010.

Rule 6.3 Requirements. FSLP proceeds are limited to the development of commercial and culturally significant property located in the District, to include new building construction and/or the rehabilitation of historic buildings. The proceeds of the loan may be used to pay costs incurred by such person or entities for acquisition; construction; demolition; design, engineering, architectural, consulting and other services; and other costs approved by the Mississippi Development Authority (MDA). Loan proceeds may not be used for the purchase of land or buildings unless a specific project is planned on that property. FSLP funds may be used to finance up to 90% of the total costs associated with the Project. The borrower must inject a minimum of 10% equity into the Project in the form of cash or tangible assets, which may be used to cover ineligible project costs. The interest rate to be charged is one-percent (1%) below the Federal Reserve Discount Rate. Should interest rates change from the date of loan commitment from CMPDD to the date of closing, the interest rate quoted in the commitment will prevail. The maximum repayment term for a loan cannot exceed 20 years and is based on the loan amount and the projected revenues from the investment property or cash flow of the business. If property is being leased, the term of the loan cannot exceed the term of the lease. Personal and/or corporate guaranties will be required as deemed appropriate by the CMPDD and MDA. Applicants must be creditworthy and demonstrate the ability to repay the loan. Applicants must be in compliance with all state and federal regulatory agencies and must not be in default on any previous debt or obligation to the State or Federal Government.

Source: Senate Bill 3194, 1999 Regular Session, Section 2, as amended by Chapter 533 Laws of 2010.

Rule 6.4 When Not Available. FSLP loans are not available under the following circumstances:

- A. To pay off existing debt for consolidation purposes;
- B. If the direct or indirect purpose or result would be to pay off creditors of applicants who are inadequately secured or in a position to sustain a loss;
- C. If the assistance would, directly or indirectly, provide or replenish funds for payment, distribution, or as a loan to owners, partners, or stockholders of the applicant and would not change the ownership interest of the business;
- D. A charitable institution or nonprofit enterprise;
- E. A newspaper, magazine, radio, television broadcasting company, or similar enterprise through which editorial opinions are expressed; or
- F. Entities engaged in the business of lending, directly or indirectly.

The FSLP is designed to provide permanent financing and may not be used for interim financing of building construction and/or rehabilitation of commercial property.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.5 Contacts. An individual or business interested in applying for a loan should first contact the City of Jackson (“the City”) Department of Planning and Development. The City will provide coordination between the applicant, MDAH, and the Foundation. An opinion regarding the Project shall be rendered by the Foundation and provided to MDAH.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.6 Meeting the Prospective Buyer. Upon notification of MDAH's approval, CMPDD shall meet with the prospective borrower to review the Project. If the Project meets the program guidelines and the proposal appears to be economically feasible, a Financial Application will be provided for completion.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.7 Review. A completed Financial Application, with the required attachments, must be submitted to CMPDD for consideration. The CMPDD Board of Directors will review and approve or reject the Project. For projects approved by CMPDD, the application and supporting documentation will be submitted to MDA for final review.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.8 Financial Application Overview. The following information must be furnished with a completed Financial Application:

- A. Description of the proposed project to include its intended use after completion (i.e. lease, sublease or occupy);
- B. Projected budget for rehabilitation or construction and cost estimates to substantiate uses of funds;
- C. If borrower is to occupy the property:
 - (i) Copy of lease, if applicable;
 - (ii) Business plan to include projected balance sheets, income statements, and cashflow statements for two (2) years.
- D. If borrower will be leasing the property:
 - (i) Copy of the lease and any sub-lease(s);
 - (ii) Projected cash flow statements of leased property for the two (2) year period after project completion;
 - (iii) Personal financial statement of lessee/sub-lessee and financial statements of any affiliated businesses of same;
 - (iv) Business plan of lessee/sub-lessee to include projected balance sheets, income statements and cash flow statements for a two (2) year period
- E. Balance sheets and income statements of any affiliated businesses of the borrower (through ownership or management control) for the past two (2) years
- F. Current personal financial statement for each applicant or for corporate borrowers, each principal with 20% or more ownership

Upon approval by MDA and CMPDD, a commitment letter will be issued to the applicant. FSLP loan proceeds will be disbursed upon project completion.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.9 General. CMPDD will close and service all loans. Borrowers will be required to make monthly payments of principal and interest, based upon an amortization schedule provided by CMPDD. On the 15th day of each month, CMPDD shall remit a check to MDA, for all principal loan payments made during the month, along with an itemized breakdown of each payment. Interest received in the form of repayments and investment interest earned may be retained by

CMPDD to cover administrative costs.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.10 Loan Closing. After a loan closes, CMPDD shall provide evidence to MDA that all collateral and security documents have been filed and perfected, including, but not limited to, adequate hazard insurance, life insurance on the borrower(s) and other insurance such as general liability coverage.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.11 Default Loans. CMPDD shall adopt and follow a prudent collection schedule. In the event of a default, CMPDD shall take all necessary and appropriate actions to recover the principal and interest due including enforcing personal guaranties. All defaulted loans shall be reported to appropriate credit bureau(s).

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.12 Reporting Requirements. CMPDD will be required to file a status report with MDA semiannually. These reports will reflect information as of the last day of each semiannual period and will be due by June 15 and December 15 of each year.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Rule 6.13 Waiver. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State law.

Source: Senate Bill 3194, 1999 Regular Session, as amended by Chapter 533 Laws of 2010.

Part 1 Chapter 7: Small Business and Existing Forestry Industry Loan Program

Rule 7.1 Guidelines. The Small Business and Existing Forestry Industry Loan Program (SBEFI), to be administered by the Mississippi Development Authority (MDA), is a loan program designed to encourage the extension of conventional financing and the issuance of letters of credit, by private institutions, to qualified enterprises in the State of Mississippi (the State). MDA will provide low-interest loans to qualified borrowers engaged in qualified small businesses or the existing forestry industry. The following guidelines set out the requirements under the program, and MDA reserves the right to make changes to these guidelines and to waive any restriction not set by statute.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.2 Qualified Participants. Small Business/Existing Forestry Industry Loans may be made to the following participants:

- A. Small Businesses: commercial enterprises with less than:

- (i) 100 full time employees;
 - (ii) Seven Million dollars in gross revenues; or
 - (iii) Seven hundred fifty thousand dollars in profit after taxes.
- B. Existing Forestry Industry Enterprises: manufacturing enterprises with its principle place of business in the state that:
- (i) Have been operational in the state for a minimum of three years;
 - (ii) Perform the initial processing of logs for the production of lumber, poles, or timber; and
 - (iii) Has maintained an average of at least fifteen employees within the past thirty-six months of application.
 - (iv) Exception: Does not include enterprises with the primary business of producing chips, or pulp manufacturer and/or paper manufacturer.
 - (v) Has employed an average of not less than fifteen (15) full time employees based on the most recent thirty-six-month period.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.3 Financial Institution Defined. An eligible Financial Institution is any commercial bank, savings bank, federal land bank, farm credit bank, agricultural credit association or other farm credit agency, which is domiciled or qualified to do business in the State.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.4 Participation Requirements. An eligible Financial Institution must originate the SBEFI Loan application for an eligible business on the form attached hereto as Exhibit C; along with a cover letter (Exhibit D). The Financial Institution must provide MDA with a Servicing Agreement Letter (Exhibit A) to be accepted upon approval of the SBEFI Loan. The Financial Institution must provide, in writing, all required information for the preparation of SBEFI Loan closing documents. All closing documents must be properly executed and returned to MDA immediately. All exhibits to the closing documents must be filed and copies sent to MDA no later than thirty (30) days from the date of closing. The Financial Institution may charge the business a servicing fee, which may not exceed one percent (1%) of the SBEFI Loan amount. The fee will be a one-time charge collected when the SBEFI Loan is closed. The fee may be paid directly by the business, deducted from the SBEFI Loan proceeds, or financed as part of the Financial Institution's loan. The Financial Institution shall also be responsible for collecting and remitting to MDA, at loan closing, a servicing fee which represents one percent (1%) of the SBEFI Loan. The fee will be a one-time charge and may be paid by the agribusiness, deducted from the SBEFI Loan proceeds, or financed as a part of the Financial Institution's loan. The Financial Institution shall be responsible for servicing the SBEFI Loan, which will include all repayments to MDA. The Financial Institution will also enforce the terms and conditions of all closing documents executed for the SBEFI Loan.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.5 Use of Loan Proceeds. SBEFI Loan proceeds for Small Businesses may be used for buildings, provide working capital, acquire machinery and equipment. SBEFI Loan proceeds for

Existing Forestry Industry Enterprises may be used to provide working capital, acquire machinery and equipment, make upgrades and improvements to machinery and equipment, and acquire raw materials.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.6 Restrictions on Use of Loan Proceeds. No loan proceeds shall be used to pay off any existing debt for loan consolidation purposes; to finance acquisition, construction, improvement, or operation of real property which is primarily for sale or investment; to provide or free funds for speculation in any kind of property or as a loan to owners.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.7 Loan Limits. The amount of a loan to any single SBEFI shall not exceed fifty percent (50%) of the total cost of the project or \$1,000,000, whichever is less. The minimum amount for an SBEFI loan will not be less than \$250,000.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.8 Interest. Interest shall be charge on the SBEFI loan at a rate equal to one percent (1%) above the current published prime rate at the time of SMFI loan approval by the MDA.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.9 Term Limit. The term of the SBEFI Loan shall match the term of the Financial Institution's loan, up to the maximum maturity of five (5) years.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.10 Disbursements. Disbursements of SBEFI funds will be made to Financial Institutions on behalf of borrowers. Requests for payment must be submitted on the MDA Request for Payment Form (Exhibit B).

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.11 Repayments. All repayments of SBEFI funds to MDA shall match the repayments of the borrower to the Financial Institution and shall be submitted upon the terms stated in the Lender's Authorization forms.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.12 Lump Sum Payments. If a Financial Institution collects payments on more than one SBEFI Loan, MDA will allow a lump sum payment on all outstanding loans. An itemized list of the source of funds, including SBEFI Loan numbers, must accompany this payment. Financial Institutions must submit all collections for a one-month period by the fifth of the following month.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.13 Agreement Terms. SBEFI Loans are subject to an agreement, providing that any and all outstanding obligations may be accelerated and payments called for if, during the term of the loan, any change of ownership or control of the business concern occurs without the prior written consent of MDA, or if any adverse change occurs without notification to MDA.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.14 Prepayments. The Financial Institution shall notify MDA in writing of any prepayments of the Financial Institution's loan. If the Financial Institution's loan is to be paid in full, the MDA portion of the loan must be paid off first. MDA and the Financial Institution shall receive partial payments on a pro-rata basis.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.15 Nontransferability. The Financial Institution's Loan and Note is prohibited from being sold assigned, conveyed, subparticipated, subdivided, encumbered or otherwise transferred.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.16 Default. MDA will consider any loan that has become delinquent, in amount equal to the required payment, to be in default.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.17 Audit. Loans made under the MSFI loan program are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Rule 7.18 Waiver. These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State Law.

Source: Miss. Code Ann. § 57-111-1 (Supp. 2008)

Part 1 Chapter 8: Mississippi Freight Rail Service Projects Revolving Loan/Grant Program

Rule 8.1 Guidelines. The Mississippi Freight Rail Service Projects Revolving Loan/Grant Program (“RAIL”) administered by the Mississippi Development Authority (“MDA”) is designed for making loans and grants to municipalities and/or counties (the “Applicant”) to finance freight rail service projects in the State of Mississippi (“State”). Counties and municipalities are encouraged to use these funds in connection with other state and federal

programs. Funding for loans/grants to applicants is derived from the issuance of State bonds. RAIL was enacted by the State Legislature during the Regular 1995 Session.

Source: Miss. Code Ann. § 57-44-7 (Rev. 2008)

Rule 8.2 Eligibility. The governing authority of a municipality or county must submit the application for assistance. The municipality or county may use the RAIL funds to provide loans to railroad corporations for freight rail service projects. Projects which are eligible for assistance must be for freight rail service projects in Mississippi's counties and municipalities and are as follows:

- A. A project which involves the acquisition, construction, installation, operation, modification, renovation, or rehabilitation of any freight rail service facilities.
- B. A project which may include any fixtures, machinery, or equipment used in conjunction with any such facilities.
- C. Any project for any freight transportation purpose.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.3 Allowable Costs.

- A. Construction costs (including reasonable and customary site work for buildings, right-of-ways, easements, etc.).
- B. Up to eight percent (8%) of the principal loan amount for design work, i.e., engineer or architect. Engineering and/or architectural costs above 8% will be paid from other funding sources.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.4 Project Requirements.

- A. The Applicant must be an incorporated municipality or a county.
- B. The Applicant may not purchase an existing building or facility for more than the appraised value.
- C. The Applicant may not acquire buildings or facilities from individuals, companies, or corporations with RAIL funds, and subsequently lease them to the seller or previous owner.
- D. The Applicant or railroad corporation will be required to retain title on all freight rail service improvements until the loan has been repaid.
- E. Any interest earned on the RAIL funds must be used on the project or returned to the state.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.5 Application Requirements.

- A. The Applicant's certified public accountant, auditor or fiscal officer must verify on official letterhead that the financials reflect the Applicant's ability to repay the loan. The verification must include the source of repayment, i.e., surcharge or other verifiable means of repayment.

- B. The most current annual audit of the Applicant and the latest financial summary reflecting any additional long-term debt or any changes in their financial position since the last annual audit was prepared must be furnished to the Community Services Division of the Mississippi Development Authority.
- C. The Applicant must give public notice, as required. (All applicants must use the attached Public Notice and it must have been published within the last six months prior to submittal of the loan application.)
- D. Once the publication process is complete, a certified copy of the minutes of the Applicant must be submitted showing their decision to proceed with the loan.
- E. The Applicant must submit cost verifications, which must be on engineer's, contractor's, or architect's original letterhead and signed by the firm's representative.
- F. Official certification of preliminary project plans and specifications from the project engineer and the operating railroad indicating that the project meets American Railway Engineering and Maintenance-of-Way Association (AREMA) and Federal Railroad Administration (FRA) standards and other necessary compliance requirements must be submitted.
- G. If applicable, the Applicant will be required to submit three different appraisals no more than three months prior to loan closing on buildings or facilities to be purchased.
- H. Applicants must fulfill the requirements of the standard application, which must be submitted to MDA for review and acceptance.
- I. If applicable, the Applicant must provide an award letter or other documentation verifying funding sources.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.6 General. The cumulative maximum loan amount for any eligible local unit of government during a calendar year is \$1,000,000. The terms of any loan must be reasonable, and shall not exceed 15 years. The loan amount allowed will be determined by the Applicant's ability to repay the loan within acceptable terms. The rate of interest on a RAIL loan shall be one percent (1%) below the Federal Reserve Discount Rate at the time of loan approval. The Applicant will be required to expend all RAIL funds within one year from the date of loan approval, unless a waiver is granted upon good cause shown. Projects shall not exceed two years. If the funds are not expended within two years, the loan will be adjusted to the actual disbursements and the remaining funds to be drawn will be recalled.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.7 Penalties. Local governments which fail to meet repayment obligations shall cause all or part of their sales tax allocation and/or homestead exemption reimbursement to be withheld and may be subject to other penalties. If the project has not begun within 90 days following loan approval, the rate of interest on the loan will be subject to increase, if the Federal Discount Rate increases.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.8 Delinquent Notice Process. Each month, invoices will be sent to communities with an active RAIL loan status. Payments are due on the first of each month. Failure to submit timely payments may result in the following procedures:

- A. If a community is 60 days delinquent, CSD may issue a letter stating the catch-up amount, terms of their loan agreement and explain the process for turning collection over to the State Auditor.
- B. If a community is 90 days delinquent, CSD may issue the same letter with the new catch-up amount.
- C. If a community is 120 days delinquent, CSD may issue the same letter with the new catch-up amount.
- D. If a community is 150 days delinquent, CSD may issue a letter stating in 30 days if catch-up payment amount has not been received, then CSD will turn the community over to the state auditor.
- E. If a community is 180 days delinquent, CSD may request the State Auditor to audit the receipts and expenditures of the loan. If the State Auditor finds that the county or municipality is in arrears in payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Mississippi Development Authority.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.9 Eligibility. Projects that are eligible for assistance must be for freight rail service projects relating to the upgrading of railroad grade crossings. Only projects approved by the Mississippi Department of Transportation (“MDOT”) shall be eligible for RAIL grants. The project approval process will be initiated by MDOT via a four-party agreement.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.10 General Grant Terms. The maximum amount of RAIL grant funds that may be provided for any one project is \$250,000.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.11 Reimbursement Process. The State will release RAIL funds on a reimbursement basis for approved eligible costs of the project as incurred. The Applicant shall certify to MDA during construction that the expenses were incurred and were in accordance with the plans approved by MDA. Funds will be released periodically upon receipt of supporting documentation from the Applicant. Funds may not be drawn down more frequently than monthly.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Rule 8.12 Audit. Funds provided under RAIL are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-44-7 (Supp. 2008)

Part 1 Chapter 9: ACE Program

Rule 9.1 Purpose. The Advantage Mississippi Initiative was outlined and developed by Governor Ronnie Musgrove and enacted into law in August of 2000. The Advantage Mississippi Initiative is a blueprint to expand prosperity throughout our entire State. This Initiative includes not only new business incentives but comprehensive programmatic changes designed to enhance Mississippi's competitive position in the nation and the world. The Mississippi Ace Fund (“Ace Fund”), administered by the Mississippi Development Authority (“MDA”) is a program designed for making grants to Economic Development Entities (“Local Sponsors”) to assist in funding extraordinary economic development opportunities to promote economic growth in the State of Mississippi (“State”). Local Sponsors are encouraged to use these grants in connection with other State and federal programs. Funding for grants to Local Sponsors is derived from monies contributed to the Ace Fund by private and public sources.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.2 Local Sponsors Applicant. Applications for assistance must be submitted by public or private nonprofit local economic development entities, including, but not limited to, chambers of commerce, local authorities, commissions or other entities created by local and private legislation or districts created pursuant to Section 19-5-99.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.3 Eligible Projects. Projects, which are eligible for assistance, must be related to the construction, renovation, or expansion of a new or expanded industry. Examples include construction of infrastructure, moving costs and other “transitional” costs.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.4 Ineligible Projects. Ace funds may not be used for working capital nor to provide funds related to a gaming enterprise.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.5 Intended Beneficiaries. Eligible Projects should benefit the following types of industries:

- A. Manufacturing and processing;
- B. Large distribution facility;
- C. Service support to agriculture, aquaculture, and mariculture;
- D. Service support to manufacturing and processing;
- E. Telecommunications and data processing;
- F. Corporate headquarters and operations centers;
- G. Research and development;

H. Tourism

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.6 Extraordinary Economic Development Opportunity. To be eligible for grants through the Ace Fund, a business or industry project must be classified as an “extraordinary economic development opportunity” and demonstrate that the business or industry is at an economic disadvantage by locating or expanding in the designated location.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.7 Extraordinary Economic Development Opportunity Defined. An “extraordinary economic development opportunity” is defined as follows:

	New Jobs	or	Capital Investment
Tier Three Counties	50		1,000,000
Tier One and Two Counties	100		2,000,000

Economic disadvantage may be determined by locating in a tier three county, or by proving that capital or operating expenses are increased by locating or expanding in a particular location, or by proving that shortages exist in necessary human and physical infrastructure at the location.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.8 Matching Funds. A local public or private fund, or in-kind match, is strongly encouraged.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.9 No Separate Application Form. The application submitted by a Local Sponsor must include:

- A. The purpose of the proposed grant including a list of proposed expenditures and the cost of each.
- B. The estimated cost of the total project, a description of the Local Sponsor's investment in the project, and all public or private sources of funding.
- C. A statement of the number and types of jobs created.
- D. Evidence that economic disadvantage exists for the designated location.
- E. The time schedule for implementation and completion of the project.
- F. Evidence, if any, of local match.
- G. A statement of the efforts that have been made by the business or industry to secure other local, state, federal or private funds for the project.
- H. Current employment levels at the project site and estimated increase, if any, as a result of financing the project.

Three (3) copies of the application must be submitted to MDA. MDA will evaluate the application to determine if the project meets the program criteria.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.10 Maximum Amount Allowed. The maximum amount of ACE funds, which may be provided for any one project, is \$150,000. In most circumstances the Local Sponsor will be required to expend local funds before the State injects any proceeds into the project.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.11 Conditions for Disbursement of Funds. A Grant Agreement will be executed between the Local Sponsor and MDA. The Grant Agreement cannot be executed until all required conditions in these guidelines have been met and all documentation received.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.12 Reimbursement Process. MDA will release Ace funds on a reimbursement basis for approved eligible costs of the project as incurred. Funds will be released upon receipt of the Ace Form of Requisition and supporting documentation from the Local Sponsor. Funds may not be drawn down more frequently than monthly. Local Sponsors have one year from the date of the Grant Agreement to request reimbursement for Ace project costs.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.13 Audit. Funds provided under Ace are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Rule 9.14 Waiver. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State law.

Source: Miss. Code Ann. § 57-1-16 (Rev. 2008)

Part 1 Chapter 10: Economic Development Highway Grant Program

Rule 10.1 Purpose. The purpose of this program is to promote industrial and other significant development in the State of Mississippi (“State”) through the construction and/or improvement of highways in areas, which demonstrate actual and immediate potential for the creation, or expansion of major industries or other significant development. The highway or highway segment to be constructed (“Highway Project”) must be necessary to ensure adequate and appropriate access to a proposed company project for the purpose of encouraging its location within a political subdivision. The Economic Development Highway Act, Miss. Code Ann. Section 65-4-1, et seq., (“the Act”), authorizes the Mississippi Development Authority (“MDA”) to assist political subdivisions with Highway Projects which encourage private companies to engage in high economic benefit projects within their area.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.2 Local Entity Defined. Local Entity means one or more counties or incorporated municipalities in the State or a State-owned port located in a county bordering the Gulf of Mexico.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.3 High Economic Benefit Project Defined. A high economic benefit project (“Company Project”) is a proposed project by a company which meets one of the following capital investment criteria:

- A. Any new capital investment by a private company in land, building, depreciable fixed assets and improvements of at least fifty million dollars (\$50,000,000) in the State.
- B. Any new investment in land, building, depreciable fixed assets, and improvements of at least twenty million dollars (\$20,000,000) by a private company which already has investments in the State of at least one billion dollars (\$1,000,000,000) in the aggregate.
- C. Any public investment of at least one hundred million dollars (\$100,000,000) to take place over a specified period of time and in accordance with a master plan.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.4 Eligibility. Private companies which are eligible for assistance under the Economic Development Highway Program (“EDH”) are:

- A. Agricultural Enterprises. An enterprise which is engaged in business related to farming, agricultural endeavors or other related business and services supporting the development of agriculture. Farming operations are not eligible.
- B. Industrial Enterprises. An enterprise other than mercantile, commercial or retail enterprises. (Example: warehouse and terminal facilities, and computer or clerical operation centers)
- C. Manufacturing Enterprises. An enterprise which is engaged in the giving of new shapes, new qualities or new combinations to products by the application of skill and labor. (Example: automobile parts manufacturer.)
- D. Research and Development Enterprises. An enterprise for the discovery of new and the refinement of known substances, processes, products, theories and ideas. (Example: pharmaceutical research lab.) This does not include activities directed primary to the accumulation or analysis of commercial, financial or mercantile data.
- E. Large Hotel or Resort. An enterprise for the guidance or management of tourists and the encouragement of the State's tourist industry. The investment criteria would be based on the construction, improvement or acquisition of hotels and/or motels, infrastructure r elated to the resort development and/or land acquisition. Casino boat facilities are not allowed to be included as part of the capital investment.
- F. Maricultural Enterprises. An enterprise for the cultivation of the natural produces found in salt water. (Example: salt water fish production.)
- G. Aquaculture Enterprises. An enterprise for the cultivation of the natural produces found in fresh water. (Example: production of living organisms found in fresh water lakes, ponds and streams.)

H. Regional Shopping Malls. A regional shopping mall with a minimum capital investment of \$50,000,000 and having a significant impact on a wide area of the State.

I. Hospital. A major medical hospital facility with a minimum capital investment of \$50,000,000 and having a significant impact on employment and health services.

Other types of enterprises, which may qualify for assistance, are distribution facilities, warehousing facilities, air transportation and maintenance facilities, movie industry studios, or the federal government.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.5 Preliminary Steps. Prior to submitting an application for assistance under the EDH Program, the Local Entity must receive a commitment from the Governor or MDA, and the type of construction regulations to be used must be identified. The Mississippi Department of Transportation (“MDOT”), MDA, the Office of State Aid (“State Aid”), and the Local Entity jointly make this decision based on location, anticipated use, and future road construction plans.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.6 Highway Project Construction Options. There are three options for Highway Project construction: construction by MDOT; construction by a Local Entity on a state designated highway; and construction by a Local Entity on a non-state designated highway. The application process and construction regulations for each are as follows:

A. Construction by the Department of Transportation:

(i) The Local Entity where the Highway Project is located must submit three (3) copies of an application to MDA providing the following information:

(ii). A description of the Highway Project including estimates of all cost related to construction and annual maintenance.

(iii). A certified resolution from the governing authority of the Local Entity detailing the source and amount of funds which the Local Entity has committed, or is willing to commit, for the Highway Project and a request for MDOT to do the construction.

(iv). A certified copy of a signed letter of intent from the private company to the Local Entity describing in detail the following:

(a). The Company Project

(b). The proposed timetable for completion of the Company Project

(c). The number of jobs to be created

(d). The dollar investment to be made by the company

(e). A guarantee from the company of the investment at the Company Project location

(v). A demonstration that the company is financially sound and appears to have assets and creditworthiness to secure necessary funds to complete the Company Project.

(vi). An estimate by the company of the number, size, and weight of motor vehicles and frequency of travel of such vehicles upon the Highway Project.

(vii) A statement from the company that the proposed Highway Project design will meet the company's needs.

- (viii). MDA will forward a copy of the application to MDOT for their evaluation.
- (ix). MDOT will provide MDA with an estimate of how much the Highway Project will cost and request a certification that EDH Funds are available for the project.
- (x). Upon approval by MDA, MDOT will be responsible for all Highway Project design, engineering and construction.
- (xi). Any changes or modifications to the approved plans, which would affect the cost of the Highway Project, must be approved by MDOT and MDA
- (xii). MDOT will certify to MDA when all charges are final and the Highway Project is officially completed.

B. Construction by a Local Entity on a State Designated Highway. In accordance with an agreement between MDA and MDOT, State Aid assists in the administration of these projects:

- (i). The Local Entity must submit four (4) copies of an engineering study based on an RWD-600, which sets out the criteria for the design and meets the requirements of the Act. The engineering study shall also contain an estimate of costs based on the design criteria. These documents shall be sent to State Aid for review and forwarding to MDOT and MDA.
- (ii). MDOT, after evaluating the engineering study and the RWD-600 based on typical average cost per mile for similar projects, will provide State Aid with its comments or approval.
- (iii). State Aid will notify the Local Entity and MDA that the design criteria has been approved or needs revision. Upon final approval by MDOT and notification to MDA of such approval, the Local Entity may proceed with the application.
- (iv). The Local Entity must prepare and submit to MDA two (2) copies of an
- (v). application, which provides the following information:
 - (a). A description of the Highway Project, including an estimate of the annual maintenance cost.
 - (b). A certified resolution from the governing authorities of the Local Entity detailing the source and amount of funds which the Local Entity has committed, or is willing to commit, for the Highway Project and a statement of intent to perform the highway construction.
 - (c). A certified copy of a signed letter of intent from the private company to the Local Entity describing in detail the following:
 - (i). The Company Project
 - (ii). The proposed timetable for completion of the Company Project
 - (iii). The number of jobs to be created
 - (iv). The dollar investment to be made by the company A guarantee from the company of the investment at the Company Project location
 - (d). A demonstration that the company is financially sound and appears to have assets and creditworthiness to secure necessary funds to complete the project.
 - (e). An estimate by the company of the number, size, and weight of motor vehicles and frequency of travel of such vehicles upon the Highway Project.

- (f). A statement from the company that the proposed Highway Project design will meet the company's needs.
- C. MDA will consider the application and determine if it meets the program requirements. All parties will be notified of MDA's action. NOTE: Engineering and other costs incurred prior to submission and approval of completed applications will be the responsibility of the Local Entity.
- D. State Aid will submit a Program Form to the Local Entity and request that a program be executed by the Local Entity and returned to State Aid. This program will be reviewed and approved by State Aid and copies submitted to MDOT and MDA.
- E. The project engineer will be selected by the Local Entity and shall be entitled to compensation based on the EDH Program Engineer Fee Schedule. The project engineer will be responsible for coordinating the project between State Aid, MDA, MDOT and the Local Entity during all phases of plan development and construction.
- F. An engineering contract will be entered into by MDA, State Aid, the Local Entity and the project engineer. Upon approval by State Aid, copies will be submitted to all parties. NOTE: All costs associated with preliminary and construction engineering incurred after approval of the program and engineering contract are eligible for MDA participation.
- G. The project engineer will be responsible for plan development and all regulatory permits. Plan preparation will be based on the latest approved specifications as developed and approved by State Aid.
- H. The project engineer will submit three (3) sets of preliminary plans to State Aid for distribution and review prior to scheduling a field inspection (PS&E).
- I. Following review of plans, State Aid will require any necessary revisions to be made and, upon satisfactory review, schedule a field inspection. The field inspection party will include representatives from State Aid; Construction Division, MDOT; Roadway Design Division, MDOT; District, MDOT; the project engineer; and representatives from the Local Entity.
- J. The project engineer will be responsible for making any revisions resulting from the field inspection and will return five (5) sets of revised full-scale plans to State Aid.
- K. The Local Entity will comply with the National Environmental Policy Act, and all submittals shall be made to State Aid for review and approval.
- L. The Local Entity will be responsible for acquisition of rights-of-way in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act, both state and federal.
- M. Following review of full-scale plans, State Aid, in conjunction with MDOT, will schedule and conduct an office review with all representatives in item 11 above.
- N. The project engineer will make any revisions resulting from the office review and submit completed construction plans (small scale), preliminary estimate, and necessary documents to State Aid.
- O. Upon approval of all right-of-way certifications and regulatory permits, State Aid will authorize the Local Entity to advertise for receipt of bids. Bids will be evaluated and contracts awarded in accordance with governing statutes. Work will begin when the award of a contract is approved and the project fund is established by MDA. MDA will determine if funding is within the budget based on the contract amount at the time of letting (MDA commitment and county funding).

- P. Monthly estimates, with quantities measured in accordance with the contract provisions, will be submitted to State Aid. State Aid will check each estimate and submit it to MDA.
- Q. Engineering estimates will be submitted on a monthly basis and, after review by State Aid, will be submitted to MDA. (See Disbursement of Funds section.)
- R. The project engineer will review and recommend to State Aid any construction change order or supplemental agreement that will increase funding above the contract amount and forward such recommendation to State Aid for its approval. State Aid will review and forward its recommendation to MDOT, when appropriate. MDOT will review and recommend to MDA approval for changing the contract amount above the original construction bids and/or any engineering agreement cost. MDA will notify State Aid of its concurrence with changes to contracts.
- S. Final inspection of the completed highway project will be made by State Aid, MDOT, and the Local Entity.
- T. Construction by a Local Entity on a Non-State Designated Highway. Highway Projects to be constructed on non-state designated highways will be built to State Aid Road Construction Standards and will be administered by State Aid.
 - (i). The Local Entity must submit three (3) copies of an application and engineering study to MDA.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.7 Application Requirements. The application should provide the following information:

- A. A description of the Highway Project.
- B. A certified resolution from the governing authorities of the Local Entity detailing the source and amount of funds which the Local Entity has committed, or is willing to commit, for the Highway Project and a statement of intent to perform the highway construction.
- C. A certified copy of a signed letter of intent from the private company to the Local Entity describing in detail the following:
 - (i). The Company Project
 - (ii). The proposed timetable for completion of the Company Project
 - (iii) The number of jobs to be created
 - (iv). The dollar investment to be made by the company
 - (v). A guarantee from the company of the investment at the Company Project location
- D. A demonstration that the company is financially sound and appears to have assets and creditworthiness to secure necessary funds to complete the project.
- E. An estimate by the company of the number, size, and weight of motor vehicles and frequency of travel of such vehicles upon the Highway Project.
- F. A statement from the company that the proposed Highway Project design will meet the company's needs.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.8 Requirements for Engineering Study

- A. The engineering study should establish the proposed road design and alignment, and meet State Aid Road Construction Standards. The engineering study must provide a breakdown of all costs based on the design criteria.
- B. MDA will forward the application and engineering study to State Aid for their evaluation. State Aid will contact the Local Entity with any questions or comments it may have concerning the design.
- C. State Aid, after evaluating the engineering study, will provide MDA with its approval of the proposed plan and cost estimate.
- D. MDA will consider the application and determine if it meets the program requirements. All parties will be notified of MDA's action. NOTE: Engineering and other costs incurred prior to submission and approval of completed applications will be the responsibility of the Local Entity.
- E. State Aid will submit a Program Form to the Local Entity and request that a program be executed by the Local Entity and returned to State Aid. This program will be reviewed and approved by State Aid and copies submitted to MDA.
- F. The project engineer will be selected by the Local Entity and shall be entitled to compensation based on the EDH Program Engineer Fee Schedule (See Exhibit A). The project engineer will be responsible for coordinating the project between State Aid, MDA, and the Local Entity during all phases of plan development and construction. NOTE: All costs associated with preliminary and construction engineering incurred after approval of the program and the engineering contract are eligible for MDA participation.
- G. The project engineer will be responsible for plan development and all regulatory permits. Plan preparation will be based on the latest approved specifications as developed and approved by State Aid for State Aid Projects.
- H. The project engineer will submit one (1) set of preliminary plans to State Aid for distribution and review prior to scheduling a field inspection (PS&E).
- I. Following review of plans, State Aid will require any necessary revisions to be made and, upon satisfactory review, schedule a field inspection. The field inspection party will include representatives from State Aid, the project engineer, and the Local Entity.
- J. The project engineer will be responsible for making any revisions resulting from the field inspection and will return one (1) set of revised full-scale plans to State Aid for office review.
- K. The project engineer will make any revisions resulting from the office review and submit completed construction plans (small scale), preliminary estimate, and necessary documents to State Aid.
- L. Upon approval of all right-of-way certifications and regulatory permits, State Aid will authorize the Local Entity to advertise for receipt of bids. Bids will be evaluated and contracts awarded in accordance with governing statutes. Work will begin when the award of a contract is approved and the project fund is established by MDA. MDA will determine if funding is within the budget based on the contract amount at the time of letting (MDA commitment and county funding).
 - (i). Monthly estimates, with quantities measured in accordance with the contract provisions, will be submitted to State Aid. State Aid will check each estimate and submit it to MDA.
 - (ii). Engineering estimates will be submitted on a monthly basis and, after review by State Aid, will be submitted to MDA. (See Disbursement of Funds section.)

M. The project engineer will review and recommend to State Aid any construction change order or supplemental agreement that will increase funding above the contract amount and forward such recommendation to State Aid for its approval. State Aid will review and forward its recommendation to MDA. MDA will notify State Aid of their concurrence in all changes to contracts.

N. Final inspection of the completed highway project will be made by State Aid, MDA, and the Local Entity.

O. State Aid will certify to MDA that all charges are final and establish a date upon which the Highway Project is officially closed.

P. MDA will notify the Local Entity of the project completion and of the date the Local Entity will become responsible for maintenance.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.9 Maintenance. Upon approval of the application by MDA, if the Highway Project is a part of the designated state highway system, the maintenance after completion of the project shall be performed by MDOT. If the Highway Project is not part of the designated state highway system, the maintenance after completion shall be performed by whichever entity was authorized to do the construction or improvement.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Rule 10.10 Disbursement Procedures. MDA will make disbursements on Highway Projects according to the following procedures:

A. Construction by the Department of Transportation:

(i). No cost incurred will be considered an eligible cost until the Highway Project is approved by MDA.

(ii). Committed funds, in the form of cash expenditures by the Local Entity, will be injected before EDH Funds are used (if applicable). All local funds, whether in the form of cash expenditures or other injections, must be supported by written documentation and approved by MDOT. Written documentation will be forwarded to MDA for approval and filing.

(iii) MDOT will submit all requests for payments to MDA for approval and reimbursement.

(iv). MDA will process all payments on a monthly basis.

(v). Payment will be paid directly to MDOT.

B. Construction by a Local Entity:

(i). No cost incurred will be considered an eligible cost until the Highway Project is approved by MDA.

(ii). Committed funds in the form of cash expenditures by the Local Entity will be injected before EDH Funds are used. All local funds, whether in the form of cash expenditures or other injections, must be supported by written documentation and approved by State Aid.

(iii). The project engineer will verify all invoices and project costs and submit these documents (engineering estimates) to a designated county or city official (chancery clerk, city clerk, purchasing clerk, etc.) who has been authorized by the

local governing authority to certify and request disbursement of EDH funds. The appropriate documentation will then be forwarded to State Aid for payment approval.

(iv). MDA will process all payments on a monthly basis and pay the project engineer or the Local Entity.

Source: Miss. Code Ann. § 65-4-1 *et seq.* (Rev. 2005)

Part 1 Chapter 11: Mississippi Tourism Rebate Program

Rule 11.1 Purpose. The Mississippi Tourism Rebate Program, administered by the Mississippi Development Authority (MDA) is a program designed to provide a Rebate to qualified Applicants of new tourism-oriented projects within the State of Mississippi. The Mississippi Tourism Rebate Program allows a portion of the sales tax paid by visitors to the eligible tourism-oriented enterprise project to be paid to the Applicant to reimburse the Applicant for eligible costs incurred during the construction of the project.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008); Senate Bill 2463, 2013 Regular Session

Rule 11.2 Eligible Project. Eligibility to receive assistance through the Mississippi Tourism Rebate Program will be determined by capital investment, type of attraction and the location of the tourism-oriented enterprise in the State as provided in Section 57-26-1 *et seq.*, Mississippi Code of 1972, as amended. Eligible Projects must meet the following minimum criteria:

- A. Tourist attractions with a minimum private investment of not less than \$10,000,000.00. Attractions that qualify are:
 - (i). Theme parks
 - (ii). Water parks
 - (iii). Entertainment parks or outdoor adventure parks
 - (iv). Cultural or historical interpretive educational centers or museums
 - (v). Motor speedways
 - (vi). Indoor or outdoor entertainment centers or complexes
 - (vii). Convention centers
 - (viii). Professional sports facilities
 - (viii). Spas
 - (ix). Attractions created around a natural phenomenon or scenic landscape, and
 - (x). Marinas open to the public;
- B. Hotels with a minimum private investment of \$40,000,000.00 in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority. The facility must have a minimum private investment of One Hundred Fifty Thousand Dollars (\$150,000.00) per guest room. The room investment may be included in the minimum total private investment of \$40,000,000.00;
- C. Public golf courses with a minimum private investment of \$10,000,000.00;
- D. A full service hotel with a minimum private investment of \$15,000,000 in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority. The facility must

have a minimum private investment of Two Hundred Thousand Dollars (\$200,000) per guest room or suite, a minimum of twenty-five (25) guest rooms or suites and guest amenities such as restaurants, spas and other amenities as determined by the Mississippi Development Authority. The room investment may be included in the minimum total private investment of \$15,000,000;

E. A tourism attraction located within an “entertainment district” as defined in Section 17-29-3 et. seq., Mississippi Code of 1972, as amended. The attraction must be open to the public, have seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00pm until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week; for information regarding “entertainment districts” please refer to Section 17 Chapter 29 of the Mississippi Code of 1972, as amended, at the following website,

<http://michie.com/mississippi/lpext.dll?f=templates&fn=main-h.htm&cp=>, or;

F. Resort Developments with a minimum investment of \$100,000,000 and which consist of a hotel with a minimum of 200 guest rooms with a private investment of \$200,000 per guest room. The development must also include guest amenities such as restaurants, golf courses, spas, entertainment activities, and other amenities.

G. A tourism attraction located within a historic district where the district is listed in the National Register of Historic Places, where the tourism attraction is open to the public, has seating to accommodate at least forty (40) persons, is open at least (5) days per week from at least 6:00 pm until midnight, serves food and beverages, and provides live entertainment at least three nights per week.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), House Bill 1358, 2014 Regular Session

Rule 11.2.1 Ineligible Project. No certificate designating an entity as an approved participant and authorizing the approved applicant to participate in the incentive program shall be issued from and after July 1, 2014, for tourism projects that are cultural retail attractions, or from and after July 1, 2016, for other tourism projects.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), House Bill 1358, 2014 Regular Session

Rule 11.3 Exceptions. The following activities cannot be qualified as an eligible project for the Tourism Rebate Program:

- A. Expansions of any existing projects previously approved by MDA;
- B. Facilities that are primarily developed for retail sales that are not certified as a Resort Development by MDA. Pro shops, souvenir shops, gift shops, concessions, and similar retail activities may be included within the definition of the project.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.4 Eligible Applicants. In order to receive benefits under the Mississippi Tourism Rebate Program, an Applicant must meet the following requirements:

- A. The applicant must be a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity authorized to do business in the State.
- B. In the event that the applicant is licensed by the State Gaming Commission, only

eligible costs in excess of the required non-gaming development will be included as eligible costs.

C. The applicant must plan to own all the components of the tourism project in order for the costs of the components to be included in the initial capital investment requirements or as a facility from which sales tax will be rebated.

D. The municipality and/or the taxing district where the tourism-oriented enterprise will be located must support and approve the facility. Such approval must be in the form of a resolution of the governing authority acknowledging support of the project and acknowledging that 80% of the sales tax collected from the project will be diverted to the Sales Tax Rebate Fund for a period of up to ten (10) years for projects approved on or before on or before June 30, 2013 and up to fifteen (15) years for projects approved on or after July 1, 2013 and will not be available for the standard city diversions.

E. Retail related to a Resort Development must consist primarily of upscale brands or their equivalent. Retail not eligible for rebate includes:

- (i). Department stores
- (ii). Convenience stores
- (iii). Grocery stores
- (iv). Liquor and Tobacco Stores
- (v). Discount stores,
- (vi). Multiplex Theaters,
- (vii). Facilities that perform cleaning, repairing, or alteration services, or
- (viii) Facilities that perform personal services such as tanning, nail and beauty salon

F. Approval of retail facilities will be approved on a case-by-case basis by the executive director of MDA.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.5 Types of Costs That May Be Included. The actual costs incurred by the applicant may be included in the total costs that are required to meet Mississippi Tourism Rebate Program initial capital investment requirements. Eligible costs related to the following are allowed:

- A. Land acquisition;
- B. Construction;
- C. Engineering;
- D. Design;
- E. Costs of contract bonds and insurances;
- F. Installation of utilities paid by the Applicant (including project-specific off-site extensions);
- G. Equipping of the attraction;
- H. Infrastructure paid by the Applicant; and
- I. Other costs comparable to those described above can be approved on a case-by-case basis.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.6 Capital Investment Exemptions. Costs for advertising, marketing, inventory, or

working capital are not included in calculating the capital investment. In no instance will costs related to gaming activities be treated as eligible project costs.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.7 Verifying Costs. Upon completion of the project, the Applicant must submit a summary of project costs to MDA. This summary must be independently verified by a Certified Public Accountant, or another independent third party approved by the MDA. The Applicant will pay the costs for this verification.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.8 Determining Amount of Sales Tax to be Diverted to the Applicant. MDA, with the assistance of the Mississippi Department of Revenue, will determine the amount of sales tax collected at the tourism-oriented enterprise that may be diverted to the applicant. The amount of Rebate payments will be equal to 80% of the amount of sales tax revenue collected from businesses owned by the project. These payments will be limited to 30% of the approved project costs funded from private sources or for a rebate term of ten (10) years for projects approved on or before June 30, 2013 and up to fifteen (15) years for projects approved on or after July 1, 2013, whichever threshold occurs first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.9 Rebate Process. To begin the rebate process, after the project costs are submitted, the Applicant must provide the MDA with a listing of all Sales Tax Accounts and Account Numbers related to the project. The Mississippi Department of Revenue will be provided these accounts and will begin making the required diversions into the Tourism Project Sales Tax Incentive Fund the month following notification. Rebate Payments from the fund will be made each January and July to Applicants that are eligible for rebates.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.10 Application Process. All Mississippi Tourism Rebate Program documents may be obtained from MDA. The applicant must submit a completed application and a non-refundable application fee of \$5,000 to MDA to initiate the review process. MDA will make a preliminary review of the application to determine if the tourism project meets the basic program requirements. Items that must be submitted with the application are:

- A. Plans and a detailed description of the proposed project;
- B. A summary of the anticipated project costs, along with supporting documentation to support the cost estimates;
- C. The method of financing to be used for the project, including financing terms;
- D. An independent study that identifies the projected number of out-of-state visitors and provides the ratio of in-state to out-of state visitors anticipated; and
- E. A resolution from the local governmental unit that acknowledges that no city diversion will be received on the sales tax collections and that the community supports the project location and plan.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.11 Approval Process. Upon determination that all program requirements are met, a Mississippi Tourism Rebate Program Certificate (Mississippi Tourism Rebate Program Certificate) will be issued. The provision of each Certificate will include:

- A. The amount of the approved project costs and the maximum rebate available.
- B. A date by which the applicant must complete the tourism project (the Completion Date).
- C. A rebate term of ten (10) years for projects approved on or before June 30, 2013 or fifteen (15) years for projects approved on or after July 1, 2013 from the completion date or the date on which 30% of the approved project costs has been rebated to the applicant, whichever threshold is met first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.12 Certification. Within three (3) months after the Completion Date, the Applicant must document the actual cost of the tourism project through a certification (Completion Certificate) of such costs by an independent certified public accountant or other independent party acceptable to the MDA. The Completion Date must be within 24 months following the Mississippi Tourism Rebate Program Certificate date, unless an extension is granted. The Approved Project Costs allowed for the tourism project will be the lesser of the actual costs as certified or the approved project cost provided on the application. Approved project costs may not increase regardless of the actual costs incurred by the project.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.13 Mississippi Tourism Rebate Agreement. After MDA receives the Completion Certificate and the actual project costs are confirmed, a Mississippi Tourism Rebate Agreement shall be executed between the applicant and MDA. Such agreement shall specify:

- A. The approved tourism project will not receive a rebate, if in any calendar year following the Completion Date, the tourism project is not operating and open to the public on a regular and consistent basis.
- B. The Agreement shall not be transferable or assignable by the applicant without the written consent of the Executive Director of MDA.
- C. The approved applicant will supply MDA with such reports and certifications as the MDA may request demonstrating to the satisfaction of the Director that the approved applicant is in compliance with the provisions of the Act and Agreement.
- D. The approved Applicant is responsible for supplying all sales tax account numbers for the project to the MDA. No rebate payments will be made for the project until one month after receipt of the account numbers by MDA. The Applicant must supply account numbers that are added or changed in order to receive rebate payments from the accounts.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.14 Mississippi Department of Revenue. MDA will notify the Mississippi Department of

Revenue of the approved tourism project through the issuance of the Mississippi Tourism Rebate Program Certificate. Upon full execution of the Tourism Rebate Agreement, MDA will provide a copy to the Department of Revenue and the Department of Revenue shall deposit eligible sales tax collections into the Mississippi Tourism Rebate Program Sales Tax Rebate Fund.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.15 Determination of Benefits. MDA shall determine, based on the Completion Certificate, the maximum amount of benefits the Applicant may receive. MDA shall make benefit payments in January and July of each year until the full credit is reached or for ten (10) years for projects approved on or before June 30, 2013 and up to fifteen (15) years for projects approved on or after July 1, 2013, whichever occurs first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.16 Amendment and Waiver. These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of these guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State laws.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.17 Additional/Contact Information. Additional information related to the program and these program guidelines may be obtained by contacting:

Mississippi Development Authority
Mississippi Tourism Rebate Program
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
(601) 359-3552

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Part 1 Chapter 12: Growth and Prosperity Program

Rule 12.1 Purpose. The Advantage Mississippi Initiative was outlined and developed by Governor Ronnie Musgrove and enacted into law in August 2000. The Advantage Mississippi Initiative is a blueprint to expand prosperity throughout our entire State. This Initiative includes not only new business incentives but comprehensive programmatic changes designed to enhance Mississippi's competitive position in the nation and the world. The Growth and Prosperity Program ("GAP"), administered by the Mississippi Development Authority ("MDA"), is a program designed for designating certain counties as GAP counties and making incentives available to private companies that locate or expand in those economically challenged areas of the state.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.2 Eligible Counties and Other Entities. A county or entity must fall into one or more of the following categories to qualify under the GAP Program:

A. Counties:

- (i). Counties which have an annualized unemployment rate that is at least two hundred percent (200%) of the state's unemployment rate as of December 31 of any year from 2000 through 2005, as determined by the Mississippi Employment Security Commission's ("MESCC") most recently published data and/or;
- (ii). Counties that apply before December 31, 2002, are eligible if thirty percent (30%) or more of the population of the county is, at or below, the federal poverty level. Eligibility will be based on the official data compiled by the United States Census Bureau as of August 30, 2000.
- (iii). Counties that apply after December 31, 2002, are eligible if thirty percent (30%) or more of the population of the county is at, or below, the federal poverty level according to the most recent official data compiled by the United States Census Bureau.
- (iv). Supervisors Districts (As They Exist on January 1, 2001)
- (v). Districts are eligible if thirty percent (30%) or more of the population, as of June 30, 2000 is at, or below, the federal poverty level according to the official data compiled by the United States Census Bureau as of June 30, 2000, or the official 1990 census poverty rate data. The official 1990 census poverty rate data shall not be used to make determination after December 31, 2002.
- (vi). Must be contiguous to a county that has been certified a GAP county by MDA. To receive the incentive(s) offered by GAP, an approved business enterprise must be located within eight (8) miles of the boundary of a certified GAP county.

B. Municipality:

- (i). Any municipality within a certified GAP county.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.3 Eligible Business Enterprises. The following types of new or expanding businesses are eligible to participate under the GAP Program:

- A. Manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of agriculture;
- B. Enterprises for research and development, including, but not limited to, scientific laboratories; or
- C. Other businesses or industries that will further the public purposes of the GAP Act as determined on a case-by-case basis by MDA, and that create a minimum of ten (10) jobs.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.4 Exemptions. Retail or gaming businesses or electrical generation facilities are not considered eligible business enterprises.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.5 Government Entity Application Information. There is no separate application form. Two copies of the application information must be submitted to MDA. MDA will evaluate this information to determine if the government entity meets the program criteria. The application presented by a county or other entity must include:

- A. A statement indicating which criteria the county is using to be deemed qualified.
- B. A supervisor's district must use the poverty level criteria and should include a map showing the GAP County with which they are associated and the basis for the districts' eligibility.
- C. A certified copy of an order or resolution of the Board of Supervisors consenting to the designation of the county or a supervisor's district as a GAP entity. The order or resolution should also contain language that the Board of Supervisors understands, that once designated a GAP county, any and all MDA approved business enterprise will receive up to a ten-year ad valorem tax exemption. Such exemption does not include the school tax or taxes imposed to pay the cost of providing fire and police protection.
- D. Any municipality within a certified GAP county must apply to MDA to be certified as a GAP community. The Municipality must be located in a Certified GAP county and must provide a certified order or resolution containing the same information as required above for county Board of Supervisors.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.6 Business Enterprise Application Information. There is no separate application form. Two copies of the business enterprise application information must be submitted to MDA. MDA will evaluate this information to determine if the business is eligible to be designated a GAP Business. Business enterprises seeking to be approved by MDA must submit the following:

- A. A complete description of the proposed business enterprise setting out the business or activity to be conducted. Included in this description should be the name, address, and telephone number of the contact person.
- B. A statement of the number of new jobs to be created in the GAP County.
- C. A statement that the project and the jobs contemplated in the GAP county are not being transferred from another county in the state.
- D. A statement that the business enterprise is in full compliance with all state and local laws, and related ordinances and resolutions (building permits, fees, taxes, prior commitments in county, etc.).
- E. A statement of the total investment planned for the project and the sources of the financing.
- F. A list of any and all other incentives awarded or applied for relative to this project.
- G. A statement that the business enterprise is willing to enter into an agreement with MDA establishing the business setting; performance requirements; and provisions for the recapture of all, or a portion, of the taxes exempted, if the performance requirements are not met.
- H. Provide a map showing where in the GAP County or supervisor's district they are located or locating.
- I. Any and all other information that the MDA may reasonably require on a case-by-case

basis.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.7 Certification. Upon approval of a business enterprise and/or a government entity, MDA shall forward a certificate of convenience and necessity to the Mississippi State Tax Commission.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.8 Controlling Regulations. Rules and regulations of the Mississippi State Tax Commission shall control the implementation of both the local and state tax exemptions granted under the Act.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.9 Length of Exemption. Any exemption granted will be for a period of ten (10) years or until December 31, 2015, whichever occurs first.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.10 Decertification. If the annualized unemployment rate in a certified GAP County falls below one hundred fifty percent (150%) of the state's annualized unemployment rate for three consecutive calendar years, the tax exemptions authorized under the GAP Act will not be granted to additional business enterprises. Tax exemptions previously granted to approved business enterprises shall continue as if the county continued to be eligible.

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Rule 12.11 Waiver. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State

Source: Miss. Code Ann. § 57-80-1 *et seq.* (Rev. 2008)

Part 1 Chapter 13: Amended Mississippi Airport Revitalization Revolving Loan Program

13.1 Purpose. The Mississippi Airport Revitalization Revolving Loan Program (“Airport Loan Program”), administered by the Mississippi Development Authority (“MDA”), is designed for making loans to airport authorities (“Local Sponsors”) for the construction and/or the improvement of airport facilities located in the state of Mississippi (the “State”). Funding for loans to Local Sponsors is derived from the issuance of State bonds or notes. The Airport Loan Program was enacted by the State Legislature during the Regular 1993 Session.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.2 Local Sponsors. Local Sponsors considered to be eligible applicants are county and municipal airports authorized to operate in the State. In order to obtain assistance under the Airport Loan Program, a Local Sponsor's governing authority (the "Governing Authority") must submit an application to MDA.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.3 Eligible Projects. Projects which are eligible for assistance must be directly related to the airport facility and are limited to construction, expansion, improvements, rehabilitation, or repair of:

- A. Drainage systems
- B. Energy facilities (power generation and distribution)
- C. Sewer systems (pipe treatment)
- D. Transportation facilities directly affecting the site, including roads, sidewalks, bridges, rail lines, rivers, pipelines, or runways
- E. Buildings
- F. Water supply systems (storage, treatment, and distribution)
- G. Equipment necessary for airport operation
- H. Land improvements

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.4 Exemptions. Loan funds may not be used for working capital by the airport facility, nor to provide facilities for utilization by a gambling vessel.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.5 General Loan Terms. The maximum which may be loaned from Airport loan funds to finance any one project is \$1,000,000. Airport loan funds may be used for one hundred percent (100%) project financing. The maximum term will be for up to ten (10) years with an interest rate of one percent (1%) per annum.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008).

Rule 13.6 Payment. The principal and interest will be paid on an annual basis and will be used to fund future loans under the Airport Loan Program.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.7 Local Sponsor Application. The application to be submitted by a Local Sponsor must include:

- A. The purpose of the proposed loan including a list of eligible items and the cost of each;
- B. The estimated cost of the total project, a description of the Local Sponsor's investment in the project, and all public or private sources of funding;

- C. The time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
- D. A statement of intention to operate the project for a time period equal to the term of the loan;
- E. Certified proofs of publication of the Resolution of Intention of the Governing Authority to apply for Airport Loan funds. (Examples of the Resolution, which must be published once a week for at least four (4) consecutive weeks in a newspaper having general circulation in the county, may be found as Exhibit A or B. Upon receiving the results of the publication of the Resolution of Intention, the Governing Authority will need to provide MDA with an executed Resolution of No Protest.
- F. A statement of willingness to comply with nondiscrimination and equal employment opportunity requirements; and
- G. Current employment levels at the project site and estimated increases, if any, as a result of financing the project.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.8 Evaluation. Two (2) copies of the application must be submitted to MDA. MDA will evaluate the application to determine if the project meets the program criteria and what terms and conditions the loan should bear.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.9 Liens. If applicable, MDA may require a lien on the improvements made at an airport for the benefit of a private company. The private company must be willing to grant a lien or to provide collateral, e.g., a letter of credit, corporate or personnel guarantees, in an amount and manner to be determined by MDA.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.10 Penalties. Local Sponsors who fail to meet repayment obligations shall cause all or part of the Local Sponsor's Governing Authority's sales tax allocation and/or homestead exemption reimbursement to be withheld or shall be subject to such other penalties as MDA may prescribe.

Source: Miss. Code Ann. § 57-61-15(7) (Rev. 2008)

Rule 13.11 Disbursement Process. A Loan Agreement and Promissory Note (the “Loan Documents”) will be executed between the Local Sponsor, the Governing Authority, and MDA. The Loan Documents are required for disbursement of funds and cannot be executed until all required conditions in these guidelines have been met.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.12 Reimbursement Process. The State will release loan funds on a reimbursement basis for approved eligible costs of the project as incurred. The Local Sponsor shall certify to MDA

during construction that the expenses were incurred and were in accordance with the plans approved by MDA. Funds will be released periodically upon receipt of supporting documentation from the Local Sponsor. Funds may not be drawn down more frequently than monthly.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.13 Audit. Loans made under the Airport Loan Program are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.14 Waiver. These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State Law.

Source: Miss. Code Ann. § 57-61-41 *et seq.* (Rev. 2008)

Rule 13.15 Compliance with Federal Immigration Laws and Mississippi Employment Protection Act. Local Sponsors and/or Project contractors are required to ensure compliance with the Mississippi Employment Protection Act (“MEPA”), Miss. Code. Ann. § 71-11-3 *et seq.*, and must ensure that the Local Sponsor and/or Project contractors register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Local Sponsor and/or Project contractors must maintain records of such compliance and, upon request of the State of Mississippi and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Any person assigned to perform services must meet the employment eligibility requirements of all federal and state immigration laws. Any breach may subject the company to the following: (a) termination of the Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to the company by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, the Local Sponsor and/or Project contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

Source: Miss. Code Ann. § 71-11-3; Miss. Code Ann. § 57-1-371; Miss. Code Ann. § 57-1-373.
Adopted: May 3, 2021

Part 1 Chapter 14: Mississippi Small Enterprise Development (SED) Finance Act

Rule 14.1 Introduction. The Small Enterprise Development Program (“SED”), administered by the Mississippi Business Finance Corporation (“MBFC”), is a program designed for the purpose of making loans to qualified private companies (“Borrower”), in order to finance the location or expansion of projects, as defined below, which will result in increased employment and investment in small communities. Funding for the SED program is derived from the issuance of taxable or tax exempt general obligation bonds (“Bonds”) of the State of Mississippi (“State”). SED was enacted by the State Legislature during the 1988 Regular Session.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.2 Small Community. Small community is defined as any county, city, or town with a population of 50,000 or less and any area within five (5) miles of such town or city, determined according to the most recent Federal Decennial Census.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.3 Borrower. In order to qualify for a loan under SED, the Borrower must meet the following requirements:

- A. The assistance must be requested by a private company located or to be located within the State which is an agricultural, aquacultural, horticultural, industrial, manufacturing, or research and development enterprise or enterprises, or the lessor of such enterprise (a “Qualified Project” or a “Project”);
- B. The Borrower must be able to demonstrate that the assistance will result in creation and maintenance of a minimum of ten (10) net new full-time equivalent jobs;
- C. The Borrower must meet the financing eligibility requirements then imposed by State and federal laws; The Borrower must have a viable and attainable business plan and the ability to timely repay the loan;
- D. The Borrower must meet the definition of “principal user and related parties” as set forth by the Internal Revenue Code of 1986;
- E. The Borrower may not have in excess of forty million dollars (\$40,000,000) in tax-exempt bonds issued and outstanding for its benefit within the United States;
- F. The Borrower must certify, in a form satisfactory to MBFC, that it will not discriminate against any employee or any applicant for employment because of race, religion, color, national origin, sex, or age; and
- G. The Borrower must meet all other requirements set forth in the Act and the program guidelines.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.4 Projects. In order to be considered eligible for assistance, a Project must:

- A. Be located in a small community within the State;
 - (i). (NOTE: Twenty percent (20%) of the total program funding may be used in communities which do not fall within the definition of small community.);
- B. Be approved for financing by MBFC;
- C. The principal user must meet the requirements of an eligible Borrower; and
- D. Otherwise meet the requirements under the Act and the program guidelines.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.5 Working Capital. No portion of the proceeds of the loan may be used to provide working capital to the Borrower.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.6 Maximum Loan Amount. The maximum amount of an SED loan, when added to all capital expenditures of the Borrower and certain facility users and related persons made in the small community in which the Project is located, cannot exceed \$10,000,000, during the period commencing three (3) years prior to the date of the issuance of the Bonds and ending three (3) years thereafter.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.7 Costs. Under State and federal laws, the proceeds of a loan may be used by a Borrower to finance the following (“Eligible Costs”):

- A. The acquisition of raw land to the extent of twenty-five percent (25 %) of the loan proceeds;
- B. Acquisition, construction, rehabilitation, improvement, and expansion of buildings and other improvements;
 - (i). (**NOTE:** The loan may not be used to acquire an existing building unless an amount equal to fifteen percent (15%) of the building cost, separate and apart from land costs, is used for renovation or improvement purposes.);
- B. Acquisition of new machinery and equipment; and
 - (i). (**NOTE:** Except under limited circumstances, loans may not be used for the acquisition of used equipment.)
- C. Capitalized interest and, if approved by MBFC, necessary reserve funds. Any cost incurred prior to approval by MBFC will not be eligible for reimbursement with Bond proceeds. Most expenses incurred thereafter can be reimbursed provided they are cost related to the Project. Cost of issuance is not an Eligible Cost reimbursable out of the proceeds of a loan.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.8 Letter of Credit. The SED program gives all financial institutions in Mississippi meeting MBFC criteria an opportunity to issue letters of credit to support local economic development efforts. Financial institutions will be required to furnish year-end statements for the past three (3) years and its most recent call report to MBFC.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.9 General. The proceeds from the issuance of Bonds will be loaned to the Borrower to be applied to the payment of Eligible Costs of the Project. Such loan made by MBFC will not exceed two million dollars (\$2,000,000) in the aggregate to any one Borrower, and the term shall

not exceed fifteen (15) years. The rate on the loan will be a fixed rate of interest equal to the net interest rate on the Bonds plus annual fees as hereinafter defined.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.10 Limits. The loan cannot be used to refinance existing debt, (except for Eligible Costs of the Project incurred subsequent to the date of inducement such as a construction loan), and shall not exceed ninety percent (90%) of the fair market value of the real and/or personal property acquired or constructed with the loan proceeds as determined by certified appraisal. The loan will be secured by a first mortgage lien on the Project and a direct pay letter of credit.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.11 Loan Agreement. To evidence each loan, MBFC, a Servicing Trustee, and the Borrower will enter into a loan agreement (“Loan Agreement”) under which the Borrower will agree to make payments in such amounts, in the manner and at such times as MBFC shall determine which payment shall be sufficient to pay the principal and interest on the Bonds and the annual fees of MBFC. Before entering into the Loan Agreement, the Borrower will be required to indemnify MBFC and the State in connection with the issuance of the Bonds and the loan (“Indemnity Letter”). The debt service on the Bonds and all expenses related to the issuance of the Bonds shall be paid by Borrowers participating in the program. The Borrower shall have the right under the Loan Agreement to make an advance prepayment of the loan upon such terms and conditions as MBFC may allow.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.12 General. A financial institution (“Financial Institution”) issuing a letter of credit must be approved by MBFC. The letter of credit must be an irrevocable direct pay letter of credit in an amount of one hundred three percent (103%) of the loan plus two hundred ten (210) days interest thereon. The Financial Institution must allow for the assignment of the letter of credit by the Borrower. The letter of credit, to be delivered at the closing of the Borrower's loan, will be for a term of not less than five (5) years and will consist of semi-annual interest and annual principal payments.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.13 Limits. The annual cost of the letter of credit shall not exceed two percent (2%) of the outstanding principal balance of the loan plus two hundred ten (210) days interest. If a letter of credit is not renewed upon expiration, MBFC shall draw upon the letter of credit for full payment of the outstanding principal and accrued interest of the loan, including any penalties or other costs.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.14 Reimbursement Agreement. The Financial Institution issuing the letter of credit will enter into a reimbursement agreement (“LOC Agreement”) with the Borrower whereunder the

Borrower will agree, among other things, to repay the Financial Institution for any amounts it has advanced and other costs associated with the letter of credit.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.15 Reimbursement Agreement Prerequisite. As a prerequisite to the LOC Agreement, the Borrower may be required to provide the Financial Institution the following:

- A. Certain positive and/or negative financial covenants;
- B. Grant liens or security interests in assets of the Borrower or its affiliates or stockholders;
- C. Personal and/or corporate guarantees; and
- D. Such other assurances as may be mutually agreed upon.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.16 General. SED Program documents may be obtained from MBFC. Three (3) copies of the completed application, along with the non-refundable application fee, must be filed by the Borrower with the MBFC staff in order to initiate the review process. Other documents which must accompany the application are a letter of intent from a Financial Institution to issue a letter of credit and an Indemnity Letter executed by the Borrower. If the application is denied by the staff, the Borrower will be advised.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.17 Approval. Upon approval of the application by the staff, the Borrower will be informed of the date of presentation of the Project to the MBFC Board of Directors (the “Board”). The staff recommendation will be in the form of an inducement resolution outlining the scope of the Project. The Borrower will be notified of the action taken by the Board.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.18 Obligations of the State. It should be noted, however, that under the terms of the Indemnity Letter, neither the State nor MBFC has any obligation, financial or otherwise, to any Borrower or other person for the failure of the State to issue, sell, or deliver its Bonds.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.19 Application Fee. The Borrower will be required to pay to MBFC, concurrently with the submission of the application, a nonrefundable application fee in the amount of five hundred dollars (\$500). The Borrower may also expect to pay a processing fee to the issuer of the letter of credit in such amount as is customarily charged by such institution for reviewing and processing applications.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.20 Closing Costs. Closing costs include the cost of legal services, financial advisor fees, or other professional services employed by MBFC in reviewing or closing the loan and in relation to the State's issuance of Bonds which is estimated to be three percent (3 %) of the loan amount. Prior to the sale of the Bonds, the Borrower will be required to provide a good faith deposit which represents two percent (2%) of the loan amount. Such deposit will be applied toward the Borrower's pro rata share of the costs set forth herein.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.21 Annual Fees. Annual fees are composed of:

- A. MIBFC Servicing Fee, which equals one-eighth (1/8) of one percent (1 %) of the outstanding principal balance of the loan, will be collected annually on the principal payment due date. The Servicing Trustee will invoice each Borrower for this fee.
- B. Servicing Trustee Fee is estimated to be one-eighth (1/8) of one percent (1 %) of the outstanding principal balance of the loan. The Servicing Trustee will collect this fee on the annual principal payment date.
- C. Letter of Credit Bank Fee, which is negotiable, cannot exceed two percent (2 %) of the outstanding balance of the loan and will be based on a schedule and amount initially agreed upon by the Borrower.

These fees cannot be paid out of loan proceeds.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.22 General. All loan and mortgage documents shall be executed and delivered prior to disbursement of any SED funds.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.23 Reimbursement Process. MBFC will release loan funds on a reimbursement basis for Eligible Costs of the Project as incurred. Funds will be released periodically upon receipt of documentation in support thereof from the Borrower or delivery of a certificate of completion of the Borrower. Requests for SED funds will be submitted to the Servicing Trustee for verification of compliance with the terms of the loan documents. These requests must be submitted to the Servicing Trustee between the first and the fifth of the month in order for the Borrower to receive SED funds within the same monthly time period. MBFC will process the approved request within a two-week period and funds will be disbursed to the Servicing Trustee for reimbursement to the Borrower.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.24 Loan Assignments. A loan may be assigned and assumed by a different Borrower upon the transfer or conveyance of a Project, provided that, (a) the new Borrower assumes all of the obligations of the assigning Borrower under the Loan Agreement and all other applicable documents; (b) the new Borrower at the time of such assignment qualifies under existing provisions of the Act, federal laws, and program guidelines; and (c) the assignment and assumption is approved by the issuer of the letter of credit and MBFC.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Rule 14.25 Program Guideline Amendments and Waivers. These guidelines may be amended by MBFC at any time. MBFC, in its discretion, may temporarily waive any requirement of these guidelines to the extent that the result of such waiver is to promote the public purposes of the Act and is not prohibited by State or federal laws.

Source: Miss. Code Ann. § 57-71-1 *et. seq.* (Rev. 2008)

Part 1 Chapter 15: Port Revitalization Revolving Loan Program

Rule 15.1 Purpose. The Mississippi Port Revitalization Revolving Loan Program (“Port Loan Program”), administered by the Mississippi Development Authority (“MDA”) is designed for making loans to state, county, or municipal port authorities (“Local Sponsors”) for the improvement of port facilities to promote commerce and economic growth in the state of Mississippi (the “State”). Funding for loans to Local Sponsors is derived from the issuance of State bonds or notes. The Port Loan Program was enacted by the State Legislature during the Regular 1992 Session.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008).

Rule 15.2 Local Sponsors. Local Sponsors considered to be eligible applicants are state, county, and municipal ports authorized to operate in the State. In order to obtain assistance under the Port Loan Program, a Local Sponsor's governing authority (the “Governing Authority”) must submit an application to MDA, which will forward copies of such application to members of the Water Resources Council Committee for review. Within fourteen (14) days of receipt of the application, the Water Resources Council Committee will make a written recommendation to MDA specifically outlining their assessment of the application.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.3 Eligible Projects. Projects which are eligible for assistance must be directly related to the port facility and are limited to construction, expansion, improvements, rehabilitation, or repair of:

- A. Dock and channel sites to include dredging
- B. Drainage systems
- C. Energy facilities (power generation and distribution)
- D. Sewer systems (pipe treatment)
- E. Transportation facilities directly affecting the site, including roads, sidewalks, bridges, rail lines, rivers, or pipelines
- F. Building
- G. Water supply systems (storage, treatment, and distribution)
- H. Marine structures
- I. Equipment necessary for port operation
- J. Land improvements

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.4 Limits. Loan funds may not be used for working capital by the port facility, nor to provide facilities for utilization by a gambling vessel.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.5 Local Sponsor Application. The application to be submitted by a Local Sponsor must include:

- A. The purpose of the proposed loan including a list of eligible items and the cost of each;
- B. The estimated cost of the total project, a description of the Local Sponsor's investment in the project, and all public or private sources of funding;
- C. The time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
- D. A statement of intention to operate the project for a time period equal to the term of the loan;
- E. Certified proofs of publication of the Resolution of Intention of the Governing Authority to apply for Port Loan funds. (Examples of the Resolution, which must be published once a week for at least four (4) consecutive weeks in a newspaper having general circulation in the county, may be found as Exhibit A or B. Upon receiving the results of the publication of the Resolution of Intention, the Governing Authority will need to provide MDA with an executed Resolution of No Protest.)
- F. A statement that the specific improvements are necessary for the efficient and cost-effective operation of the port and/or the project, together with supporting financial and engineering documentation;
- G. A statement of willingness to comply with nondiscrimination and equal employment opportunity requirements; and
- H. Current employment levels at the project site and estimated increases, if any, as a result of financing the project.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.6 Evaluation. Four (4) copies of the application must be submitted to MDA. MDA will evaluate the application and the Water Resources Council Committee's recommendation to determine if the project meets the program criteria and what terms and conditions the loan should bear.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.7 General Loan Terms. The maximum amount, which may be loaned from Port Loan Funds to finance any one project, is \$1,000,000. Port Loan Funds may be used for one hundred percent (100%) project financing. The maximum term will be for up to ten (10) years with an interest rate of one percent (1%) per annum.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008).

Rule 15.8 Principal and Interest. The principal and interest will be paid on an annual basis and will be used to fund future loans under the Port Loan Program.

Source: Miss. Code Ann. § 57-61-1 (Rev. 2008)

Rule 15.9 Liens. If applicable, MDA may require a lien on the improvements made at a port for the benefit of a private company. The private company must be willing to grant a lien or to provide collateral, e.g., a letter of credit, corporate or personnel guarantees, in an amount and manner to be determined by MDA.

Source: Miss. Code Ann. § 57-61-1 (Rev. 2008)

Rule 15.10 Penalties. Local Sponsors who fail to meet repayment obligations shall cause all or part of the Local Sponsor's Governing Authority's sales tax allocation and/or homestead exemption reimbursement to be withheld or shall be subject to such other penalties as MDA may prescribe.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.11 General. A Loan Agreement and Promissory Note (the “Loan Documents”) will be executed between the Local Sponsor, the Governing Authority, and MDA. The Loan Documents are required for disbursement of funds and cannot be executed until all required conditions in these guidelines have been met.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.12 Reimbursement Process. The State will release loan funds on a reimbursement basis for approved eligible costs of the project as incurred. The Local Sponsor shall certify to MDA during construction that the expenses were incurred and were in accordance with the plans approved by MDA. Funds will be released periodically upon receipt of supporting documentation from the Local Sponsor. Funds may not be drawn down more frequently than monthly.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.13 Audit. Loans made under the Port Loan Program are subject to audit by the State Authority of Audit.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.14 Waiver. These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State Law.

Source: Miss. Code Ann. § 57-61-41 (Rev. 2008)

Rule 15.15 Compliance with Federal Immigration Laws and Mississippi Employment Protection Act. Local Sponsors and/or Project contractors are required to ensure compliance with the Mississippi Employment Protection Act (“MEPA”), Miss. Code. Ann. § 71-11-3 et seq., and must ensure that the Local Sponsor and/or Project contractors register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Local Sponsor and/or Project contractors must maintain records of such compliance and, upon request of the State of Mississippi and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Any person assigned to perform services must meet the employment eligibility requirements of all federal and state immigration laws. Any breach may subject the company to the following: (a) termination of the Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to the company by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, the Local Sponsor and/or Project contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

Source: Miss. Code Ann. § 71-11-3; Miss. Code Ann. § 57-1-371; Miss. Code Ann. § 57-1-373.

Adopted: May 3, 2021

Part 1 Chapter 16: The Mississippi Motion Picture Production Tax Incentive Program

Rule 16.1 Purpose. The Mississippi Motion Picture Incentive Program provides a cash rebate on eligible expenditures, payroll, and fringes. This program is available for nationally distributed motion pictures, television programs, DVDs, documentaries, short films, commercials for network or cable broadcast, video games, and stand-alone post production and includes animation, interactive media, 3D applications, cinematics, visual effects, and motion capture. National distribution includes theatrical, broadcast, direct to DVD/video, festival screening, streaming video, and internet delivery.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.2 Minimum Investment. There is a \$50,000 minimum Mississippi investment (local spend) per project. There is a \$10 million per project rebate cap. There is a \$20 million annual rebate cap. There is no minimum requirement for production days or percentage of production spend. At least 20% of the production crew on payroll must be Mississippi residents.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014).

Rule 16.3 Utilization of Mississippi Motion Picture Incentive Program/Mississippi Film Logo. Utilization of the Mississippi Motion Picture Incentive Program must be acknowledged on screen,

and a Mississippi Film logo must be included in the end credits. Graphic will be provided. Additionally, cities and/or counties where filming took place must be acknowledged.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.4 Mississippi Investment Rebate

- A. A production is eligible for a 25% rebate of their base investment (local spend) in Mississippi. The base investment is based on production expenditures in Mississippi. As a general rule, Mississippi spend is defined as expenditures made to companies based in Mississippi, including cast and crew non-payroll expenditures (i.e., per diems and housing allowances).
- B. Payments made for airfares directly related to the project in Mississippi where travel is to/from airports in Mississippi, Baton Rouge, New Orleans, Memphis, or Mobile are qualified spend only if reservations are made through a Mississippi-based travel agent or agency.
- C. The rental or purchase of equipment and production-specific goods and services is qualified spend only if secured in the following instances:
 - (i) directly from a Mississippi production company/vendor; or
 - (ii) through a Mississippi production company/vendor providing equipment rented from an out-of-state company or a Mississippi vendor regularly engaged in the business of providing specific goods and services (“like-for-like”), provided an industry standard mark-up has been added; or
 - (iii) from an out-of-state equipment company that has established a staffed local office or has contracted with a local representative in Mississippi. The motion picture production company must not supply any assistance or instruction to the local vendor in providing and/or securing any services or tangible personal property from out of state. Please note that all payments must be delivered to the vendor’s Mississippi location. Payments sent out of state, generally, are not eligible for the rebate.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.5 Non-Resident Payroll and Fringes Rebate. A production is eligible for a 25% cash rebate on payroll and fringes paid to non-resident cast and crew whose wages are subject to Mississippi income tax withholding and for that portion of their salary for the project up to and including \$5 million. For purposes of this program, payroll means salary, wages, or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld. Fringes mean costs paid by a motion picture production company for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits, and health insurance premiums. Payments to loan outs qualify if 5% Mississippi income tax is withheld.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.6 Resident Payroll and Fringes Rebate. A production is eligible for a 30% cash rebate on payroll and fringes paid to resident cast and crew whose wages are subject to Mississippi income tax withholding and for that portion of their salary for the project up to and including \$5 million. (The employee must live in Mississippi or maintain a permanent home here and spend more than 6 months

each year in the state.) For purposes of this program, payroll means salary, wages, or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld. Fringes mean costs paid by a motion picture production company for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits, and health insurance premiums. Payments to loan outs qualify if 5% Mississippi income tax is withheld.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.7 Honorably Discharged Veteran Payroll Rebate. A production is eligible for an additional 5% cash rebate on payroll paid to any member of the cast or crew who is an honorably discharged veteran of the United States Armed Forces.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.8 Stand-Alone Post and ADR/Voiceover/Recording Not Originated in Mississippi. Regarding stand-alone post and ADR/voiceover/recording for production not originated in Mississippi: the voiceover talent payroll rebate cannot be more than three (3) times the production spend for the session in Mississippi. (For example, if the total production spend, including all production payroll, is \$15,000, the rebate on the talent payroll cannot exceed \$45,000.) For more information or clarification, please contact the Mississippi Film Office.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.9 Sales and Use Tax Reduced Rates. In addition to the Mississippi Motion Picture Incentive Program, Mississippi offers a sales and use tax reduction on eligible rentals/purchases to encourage film production in the state. Production equipment and machinery used directly in the filming and/or editing of a project may be taxed at the reduced rate of 1.5%, as stated in Miss. Code Ann. Section 27-65-11 and Section 27-65-17. The following production equipment is eligible for this reduced rate:

- A. Audio equipment
- B. Camera equipment
- C. Editing equipment
- D. Lighting equipment
- E. Projection equipment
- F. Sound equipment
- G. Computer equipment used for animation, editing, or special effects

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.10. Registration with Mississippi Department of Revenue. A production must register for a use tax number and a Direct Pay Permit online through the Mississippi Department of Revenue website, www.dor.ms.gov, in order to access the reduced tax rate. All relevant Department of Revenue documents must be completed, submitted to the Department of Revenue, and approved by the Department of Revenue before sales and use tax reductions can be taken. A production may register immediately upon being approved into the Mississippi Motion Picture Incentive Program by

the Mississippi Development Authority (MDA).

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.11 Application. The production company must submit an application to the Mississippi Film Office/Mississippi Development Authority (MDA) Required with the application are:

- A. The script and a one page synopsis (if a feature/television project), the storyboard (if a commercial) or the treatment (if a documentary).
- B. The proposed budget.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.12 Name of the Production Company. The production company name on the application is the name that will be listed on the certificate issued by MDA. The production company name on the application and certificate *must* match the name to be used on production expenditures, billings, and invoices for those expenses to be eligible for the rebate, and the entity applying for the rebate *must* have the same Federal Tax ID Number as the entity that will incur and pay production costs.

- A. It is possible for a company to work under a “doing business as” name or DBA, but the entity on the application and the DBA must have the same Federal Tax ID Number; the dba cannot be a separate legal entity.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.13 Submission of Application. The application must be submitted before the beginning of production for the Mississippi portion of the project. It is suggested the application be submitted to the Mississippi Film Office at least one month prior to the start of pre-production.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.14 Application Review. The Mississippi Film Office and MDA’s Financial Resources Division review the application for requisite information and determine whether it meets the program’s requirements. Based on submitted budget information, the MDA establishes a maximum rebate figure at this time. The date the Film Office and Financial Resources Division complete review of the application and determine the production meets the program’s requirements will be the eligibility date for all expenses related to the production. This date will be noted in a letter from the Film Office. Rebates will not be given on any expenditure made prior to the date on this letter.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.15 Public Announcement of Project. Once the production is prepared to publicly announce the project and has its funding in place, the production company must notify the Mississippi Film Office. The production then is placed on the agenda of a public meeting of the MDA Board for official MDA approval and is issued a certificate by MDA.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.16 Changes in Information Submitted in the Application. If any information submitted in the application changes, the production company must notify the Film Office; official MDA approval of a production company for the Mississippi Motion Picture Incentive Program is subject to the representations made by the production company in the application.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.17 Request for Upward Revision of Rebate. Any upward revision of the original rebate estimate must be requested in writing to the Mississippi Film Office and submitted prior to the completion of production in Mississippi. A revised budget must be submitted to substantiate the revision.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.18 Refund. Upon completion of the Mississippi portion of the project, the production company must supply the Mississippi Department of Revenue and the Mississippi Film Office with documentation to substantiate the rebate request. The Department of Revenue will provide sample templates for the submission of spend and payroll. Extensive documentation must be maintained and submitted during the rebate submission process. It is recommended that the Department of Revenue be contacted concerning proper rebate documentation practices before expenses are incurred. A link to the incentive book containing details of the rebate submission process can be found on the Department of Revenue website at www.dor.ms.gov.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.19 Audit by Mississippi Department of Revenue. The Mississippi Department of Revenue will audit the submission in house and will attempt to deliver a **first review** of the rebate request within 90 days after submission of all required and requested documentation.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.20 Nonpayment of Vendors. In the event the production company fails to pay vendors, employees, or independent contractors in a timely fashion, the audit and review process may be delayed until those issues are resolved.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.21 Additional Requirements.

- A. During pre-production, the production must submit to the Mississippi Film Office blank copies of the production's Certificate of Insurance, the Location Agreement, and any talent releases and crew deal memos. Other relevant forms may also be requested.
- B. No later than a week before the start of principal photography in Mississippi, the production must supply the Mississippi Film Office with the following information:
 - (i) Crew list
 - (ii) Cast list

- (iii) Location list
 - (iv) Vendor list
 - (v) Day out of days
 - (vi) Shooting schedule
 - (vii) Shooting script
- C. Additionally, the director and deputy director of the Film Office must be added to the distribution list for all call sheets and all script revisions.
- D. Upon completion of production, final versions of the above lists must be submitted to the Film Office.
- E. These guidelines are only intended to summarize the Mississippi Motion Picture Incentive Program process. For additional information relating to the incentive application and to production in Mississippi, please contact the Mississippi Film Office at:
- (i) 601-359-6564
bblack@mississippi.org
 - (ii) 601-359-3422
wemling@mississippi.org
- F. For Department of Revenue Guidelines and additional information and clarification relating to the rebate process, submission of spend and payroll, and eligible spend, please contact:
- (i) Sam Portera
Mississippi Department of Revenue
601-923-7317
sam.portera@dor.ms.gov

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Rule 16.22 Amendment/Waiver of the Guidelines. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of these guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State laws.

Source: Miss. Code Ann. § 57-89-1 *et seq.* (Rev. 2014)

Part 1 Chapter 17: Amended Visit Mississippi Tourism Matching Grants Program

Rule 17.1 Purpose. The goal of the program is to generate increased travel into and/or within Mississippi, have broad appeal targeting markets beyond the local area and make an economic impact on the area through tourism promotion. Visit Mississippi Tourism Matching Grants Program administered by the Mississippi Development Authority / Visit Mississippi.

Source: Miss. Code Ann. § 57-1-60 *et seq.* (1972), as amended.

Rule 17.2 Eligibility Requirements. Eligible applicants for funding are Mississippi Convention and Visitors Bureaus or Chambers of Commerce with designated Tourism Council or Commission or established Tourism Councils with the primary objective of promoting tourism. In addition, an applicant organization that receives grant funding must

be the responsible party for placement of advertising.

Source: Miss. Code Ann. § 57-1-60 *et seq.* (1972), as amended.

Rule 17.3 Auditing. For auditing purposes, we must have an established tourism entity designated as a financial base for the payment of the grant monies.

Source: Miss. Code Ann. § 57-1-60 *et seq.* (1972), as amended.

Rule 17.4 Items Eligible for Funding Consideration. Projects eligible for funding consideration include only those directly related to the promotional efforts targeted to markets outside your immediate area (over 100-mile radius or out of state). The following are the only projects eligible and applicable costs after submission and approval of the applicant's final report, which must be submitted to the Director of Visit Mississippi within 60 working days of the project's completion.

A. Advertising through mass media, including newspapers, magazines, radio, television, billboards and internet advertising, including social media (eligible for up to 50% of the project cost. PLEASE NOTE THAT ADVERTISING IN THE MISSISSIPPI TOUR GUIDE IS INELIGIBLE FOR SUBMISSION.

Source: Miss. Code Ann. § 57-1-60 *et seq.* (1972), as amended.

Rule 17.5 Process and Selection Criteria. The selection process will be carried out by a five-member committee made up of the president (or his designee) of the Mississippi Hotel & Lodging Association, the Mississippi Restaurant Association and the Mississippi Tourism Association, plus two additional members appointed by the Director of Visit Mississippi.

A. All projects for consideration must be submitted to Visit Mississippi by 5:00 pm on the application deadline date, which will be set by the grant committee. The committee will meet after the given application deadline to review projects. All grant recipients must be notified in writing of the eligibility of their submitted project 40 working days after submission to Visit Mississippi.

All projects must be completed within one year from the date of approval.

****NOTE: FUNDING WILL BE AVAILABLE ONLY AFTER PROJECT COMPLETION (Reimbursable Grant).**

B. Each applicant will be judged objectively and solely on the merits of the project through the approved Performance Evaluation Expenditure Review (PEER) Rating System. The decisions rendered by the Grant Committee are final and are not appealable to the State Tourism Director.

Source: Miss. Code Ann. § 57-1-60, *et seq.* (1972), as amended.

Rule 17.6 Checklist for Project Requirements. All projects receiving a grant must adhere to the following rules. If any of these rules are not followed, a project will be deemed ineligible for consideration, and the Director of Visit Mississippi will withhold monies to

the project. The rules are:

- A. Display Visit Mississippi's logo and grant phrase. All funded projects must display the Visit Mississippi logo. **All radio ads must use the grant phrase, "This project is partially funded by Visit Mississippi."** Projects will receive NO funding if the logo/grant phrase is not included on the project(s).
- B. Display organizations' contact information. All funded projects must list the contact information such as address, telephone number and/or website for general inquiries.
- C. Copy should generate interest in local tourism offerings (product). Ineligible material includes quality of life, industrial/retirement recruitment, and will not be funded.
- D. Grant monies cannot be used to match state-generated or appropriated funds.
- E. If organization receives state appropriated funds, then the organization is ineligible for match grant funds under this program.

Source: Miss. Code Ann. § 57-1-60, *et seq* (1972), as amended.

Rule 17.7 Attachments for Application. The following material must be attached/included with the application:

- A. Potential for economic return. Number II in the Matching Grant Application. All applications must identify target audiences and demonstrate potential for economic return. (**NOTE: IF THIS IS A REPEAT PROJECT, PLEASE REPORT RESULTS IN SECTION V OF THE TOURISM MATCHING GRANTS APPLICATION)
- B. Project distribution/media plan/marketing plan. Number IV in the Matching Grants Application. All applications must identify means of distribution (how will your target audience receive your information). Utilizing paid media, you list the name of the publication, the size of the ad, dates ad will run and actual ad cost. This is necessary whether newspaper, radio, television, magazine, billboard or digital/online advertising (website banner ads, Facebook ads, Twitter ads, Instagram ads, etc.) is used. Because the Visit Mississippi Tourism Matching Grants Program is designed to bring new visitors into an area, local advertising is ineligible. Your marketing plan must reflect the project's strength and appeal in bringing new visitors into your area.
Include Advertising Placement Schedule.
- C. Project Research. Number V in the Matching Grants Application. All applicants must provide methods for research tracking measurement of each project's results. Research results must be submitted to Visit Mississippi within one year of project completion. The procedure used to research the effectiveness of your advertising and promotional efforts must be included.
**Examples:
*To use redeemable coupon in print and/or paid media, you would put a different tracking code on each of the coupons. When the coupon is redeemed, you could identify the medium that was used and determine which medium produced the best results.
*You can ask callers where they heard or saw your advertisement.

- *You can conduct consumer intercept surveys on site.
- *Specific landing page on your website to which you drive consumers.
- D. Verifiable research data. If funding permits, this program will be available next year. Please keep in mind that all repeat projects will require verifiable research data. Cost per inquiry may be considered a factor.
- E. Professional fees. Visit Mississippi will not be responsible for any professional fees incurred in this project. This includes production costs and commissions.
- F. Authorizing signatures. All submitted projects must bear the signature of the authorizing officer of the organization and/or the Chief Financial Officer.

Source: Miss. Code Ann. § 57-1-60, *et seq* (1972), as amended.

Rule 17.8 General Grant Fulfillment Information.

- A. Notification of the grant awards. All projects approved for funding must receive written confirmation from Visit Mississippi within 40 working days. (No oral approvals will be allowed).
- B. Modifications to grant projects. If a project changes during the development stages, then a letter is to be written to Visit Mississippi for approval before modification. The letter is to state what has been approved for funding, the requested change, the reasons for the change and any alterations in cost. Project changes must be submitted to Visit Mississippi for approval prior to modification. Any modification to a grant resulting in a cost increase up to 10 percent more than the original designated amount may be approved by the grant coordinator.
- C. Acceptance letter. The letter of acceptance must be returned to the Visit Mississippi within 15 working days after notification of grant approval.
- D. Final reports. Completed grant reports must be received by Visit Mississippi within one year of grant award date or the project may be rejected for funding.

Source: Miss. Code Ann. § 57-1-60, *et seq* (1972), as amended.

Rule 17.9 Final Report Checklist (Grant Applicant/Grant Coordinator).

- A. Is backup documentation arranged in same order as listed on original application?
- B. Is copy of vendor's invoice included? Eligible/applicable expenditures should be highlighted - sales tax not eligible.
- C. Is copy of the canceled checks (front and back) or Bank Statement providing proof of payment included and attached to invoices?
- D. Is one original advertisement/tear sheet, tape or brochure included? If a project is completed with ineligible material (quality of life, industrial/retirement recruitment) included, then it will NOT be funded.
- E. Is the Visit Mississippi logo/grant phrase included on the project? The Visit Mississippi Director will withhold funds if the logo is not included.
- F. Is the signature of the Director or Chief Financial Officer of the applicant, verifying the project has been completed, included?
- G. Is the sample invoice for receipt of payment complete and included?
- H. Is a written description of the event or project and the impact or contribution it had on

tourism included? (Media, billboard advertisements include description, name or media, location and dates ads ran).

- I. The above items must be checked off and included in the final report submitted to Visit Mississippi in order for projects to be processed for final payment.

Source: Miss. Code Ann. § 57-1-60 *et seq.* (1972), as amended.

Rule 17.10 Awarding of Funds. Approved projects will receive all of the funded amount (up to 50 percent of total eligible costs) after submission and approval of the applicant's final report, which must be submitted to the Visit Mississippi Director of Tourism within one year of the grant award date. All funds awarded must be matched on a dollar-for-dollar basis by the applicant. Matching contributions must be in hard cash, not in-kind contributions. The match must be budgeted and allocated funds earmarked to the proposal. Applying organizations will be accountable for all monies awarded and responsible for submission and tracking of all research and measurement of completed project results. The tourism organization receiving a grant from Visit Mississippi, as well as any organization participating in this grant, will be subject to audit by the State Auditor's Office. If the completed project cost is higher than the estimate, the organization will receive the amount originally approved when the awards were made on project proposals. If the total cost of the completed project is less than the provided estimate, the organization will be awarded the designated percentage of the lesser amount. (Example: if a project with a total estimated cost of \$4,000 received an award of 50 percent or \$2,000 and the actual cost was \$3,000, then the project would receive 50 percent of the final cost, or \$1,500.00.)

Source: Miss. Code Ann. § 57-1-60 *et seq.* (1972), as amended.

Rule 17. 11. Sample Invoice Information. The following information listed in quotations must be retyped on documents with your letterhead. Fill in the information for your project and include it in your final report. It must:

- A. Be titled "Invoice for Payment";
- B. Include "Contact Name";
- C. Include "Organization Name" (as listed on the tax ID form),
- D. Include "Mailing Address",
- E. Include "City, State, Zip",
- F. Include "Project Title",
- G. Include "Project Code"(This number is listed in the letter of confirmation from Visit Mississippi),
- H. Include "Estimated cost of project listed on the application".
- I. Include "Actual Cost of the Project" (Only approved expenditures relating to grant project from original application), and
- J. Include "Match Grant Amount Due" (If project cost is less than estimate, you may receive only the designated percentage of the actual cost; if the project cost exceeds the estimate, you may receive only the original grant amount awarded).
- K. Contact Visit Mississippi Tourism Matching Grants Program for additional information.

Source: Miss. Code Ann. § 57-1-60, *et seq* (1972), as amended.

Rule 17.12 Contact Information. For more information on the Visit Mississippi Tourism Matching Grants program, please contact:

Yvonne Layton at 601-359-2781 or by email at ylayton@mississippi.org

Date Rules Adopted: June 9, 2020.

Part 1 Chapter 18: Mississippi Rail Grant Program

Rule 18.1 Purpose. The Mississippi Rail Grant Program (RAIL), as authorized and codified in the Mississippi Railroad Improvements Fund -- Miss. Code Ann. §57-46-1 (Rev. 2014) -- and administered by the Mississippi Development Authority (MDA), is designed for making grants to railroads ("Applicant") to finance projects to promote economic growth in the State of Mississippi ("State"). Funding for grants to Applicant is derived from appropriations or funds otherwise made available by the State Legislature.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Rule 18.2 Eligible Applicants. Any entity owning or operating a rail line in Mississippi that wishes to apply for a grant must submit an application to MDA. An eligible applicant is defined as follows:

- A. Regional Rail Authority – a publically owned entity established to provide rail service for a defined region within the state.
- B. Privately Owned Rail Service Provider – a company that owns or operates a rail line in Mississippi that provides rail service within the state.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Rule 18.3 Eligible Projects. Eligible projects shall have a direct connection to economic development or aid in the creation of jobs. Eligible projects must identify specific repairs or improvements to a line that would make the line more competitive when providing services to industry in Mississippi.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Rule 18.4 Key Points. RAIL funds may not be used for working capital, for general expenditures, which would normally be covered under an applicant's general operation budget, or for administrative expenses.

- A. A limited amount of funds may be used for engineering/architectural cost. The amount of these professional services will be limited to an amount not to exceed 10% of the RAIL grant award amount.
- B. The RAIL Program is a competitive program.
- C. All funds awarded must be spent for improvements within the scope of the original project description as stated in the grant application.

- D. Additionally, if grant recipients complete their project for less than the grant amount awarded, the excess funds can be requested for additional project work as long as there is no change from the scope of the original project.
- E. In no case, however, will an approved applicant be allowed to use excess grant funds to pay for project costs that vary from the original project description.
- F. All requested changes and variances from the original application should be made in writing and will be reviewed by MDA on a case-by-case basis.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Rule 18.5 How to Apply for the Program. To apply for the Rail Grant Program, a completed application that is submitted by an Applicant must include:

- A. Purpose of the proposed grant including a list of eligible items and the cost of each; The estimated cost of the total project, a description of the Applicant's investment in the project, and all public or private sources of funding that have been secured and that will be utilized exclusively for the project;
- B. Time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
- C. A statement that the specific improvements are necessary for economic development or job creation;
- D. Engineering documentation; (Must be on the engineer's letterhead, with his stamp/seal and signature)
- E. Current employment levels at the project site and estimated increase, if any, as a result of financing the project;
- F. One (1) copy of the application must be submitted to the Financial Resources Division of MDA, Rail Grant Program, Post Office Box 849, Jackson, Mississippi 39205 or hand-delivered to the 15th floor of the Woolfolk Office Building.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Rule 18.6 General Grant Terms.

- A. The program intent is to stimulate growth and economic development through rail transportation infrastructure in the State.
- B. The amount of each grant awarded will be based on the applicant's ability to participate in the project, the degree of need for the improvements, the lack of availability of other funding sources, the timeframe required to perform the improvements, the economic impact of the project on the community, and other criteria MDA develops.
- C. Each application will be evaluated on its own merit to meet the intent of the program.
- D. Each applicant must certify that they will perform standard maintenance and continue operations with reasonable customer pricing for a minimum of three years after the project is completed.
- E. In the event that the line is sold during the first three (3) years after the date of the final disbursement, the grant must be repaid to the State.
- F. **A minimum match of 50% is required for Class 1 lines, and a 25% match is required for all other lines.**

- G. Failure to comply with Grant terms may result in repayment of grant funds.
- H. A deadline for applications will be published by MDA each calendar year.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Rule 18.7 Conditions for Disbursement of Funds. A Memorandum of Understanding will be executed between the Applicant and MDA.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Rule 18.8 Reimbursement Process.

- A. MDA will release RAIL program funds on a reimbursement basis for approved eligible costs of the project as incurred.
- B. The Applicant shall certify to MDA during construction that the expenses were incurred and were in accordance with the plans and application approved by MDA.
- C. Funds will be released upon receipt of the RAIL Program Form of Requisition and supporting documentation from the Applicant.
- D. Funds may only be drawn down once a month.
- E. Applicants have two (2) years from the date of the Memorandum of Understanding to request reimbursement for RAIL project costs.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Rule 18.9 Additional Information. Program inquires and applications should be directed to:

- A. Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
Telephone: (601) 359-2415 ~ Fax: (601) 359-3619
- B. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such action is to promote the public purpose of the Act and is not prohibited by State law.

Miss. Code Ann. §57-46-1 (Rev. 2014).

Part 1 Chapter 19: Mississippi Air Service Development Program Guidelines

Rule 19.1 Purpose. The Mississippi Air Service Development Program Act, (“ASDP”) administered by the Mississippi Development Authority (“MDA”), is designed for making grants to commercial service airports to aid commercial airports in achieving their goals and objectives to enhance commercial air service and economic development in the State of Mississippi (the “State”). Funding for grants under the ASDP is derived from state funds. The ASDP was enacted by the State Legislature during the Regular 2014 Session.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.2 Eligible Applicants. Only commercial service airports (“Grantee”) which have scheduled air carriers that hold a Federal Aviation Administration (FAA) Part 121 Certificate and that provide scheduled air service at Mississippi airports that maintain FAA Part 139 Certification may apply for funding under this program.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.3 Eligible Expenditures. The fund shall be used to provide grants to commercial service airports, as provided in this section, for one or more of the following air service development goals:

- (a) Adding air service to a new destination;
- (b) Adding frequencies to current services;
- (c) Lowering fares/introducing new competitive service;
- (d) Upgauging aircraft; and
- (e) Adding a new FAA Part 121 commercial air carrier.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.4 Eligible Projects. Eligible projects for grants shall include marketing and advertising of new service and routes and additional frequencies and for other risk abatement plans. For the purposes of this program, marketing and advertising is defined as development, production and placement of advertising or promotional items and other promotional expenditures. Risk abatement plans include other expenditures in direct support of the new service or carrier such as improvements to the airport’s terminal may be approved at the discretion of the MDA Executive Director. Use of grant funds to purchase airline passenger seats is prohibited.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.5 Grant Amounts. The amount of a grant shall be based on a formula of Ten Dollars (\$10.00) per seat per day calculation, not to exceed an annual total of Five Hundred Thousand Dollars (\$500,000.00) per grant per airport. The calculation will be established using the air carrier’s monthly activity report. In no instance will any combination of grants exceed Five Hundred Thousand Dollars (\$500,000.00) per year per airport.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.6 Matching Funds. Each grant shall require a forty percent (40%) match, which may be provided by private sources and/or public sources. Of the forty percent (40%) match prescribed under this subsection, only one-half (1/2) of the match may derive from in-kind sources. Cash matches can include discounts of standard airport fees (such as a landing fee) or other cash contributions whether by the airport, another public source or private sources provided that the cash contributions are directly associated with the new air service or carrier directly related to new or additional air services that are subject of a grant. In-kind match sources include donated services or waived fees and may be taken from third party private or public sources; however,

they must be verifiable and necessary and reasonable for proper and efficient recruitment of the new air service or carrier.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.7 Disbursements. Grants shall be disbursed by the Mississippi Development Authority within twelve (12) consecutive months as follows:

- (a) Thirty-five percent (35%) at the end of the first three (3) months of service;
- (b) Twenty-five percent (25%) at the end of the second three (3) months of service;
- (c) Twenty-five percent (25%) at the end of the third three (3) months of service; and
- (d) Fifteen percent (15%) at the end of the fourth three (3) months of service.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.8 Time Requirement for Expenditures. Each grant shall be expended within twelve (12) consecutive months from the date the grant is awarded. An airport grant recipient shall only utilize grant funds in accordance with FAA regulation.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.9 Ineligible Expenditures. Grant funds may not be used to purchase airline passenger seats.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.10 Discontinuance of Service or Route. If the air service or carrier discontinues the new service or route that was the subject of the grant during the 12-month grant period, MDA shall cease all unexpended disbursements incurred after the service was discontinued and move to terminate the grant agreement.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.11 Conditions for Disbursement of Funds. A Grant Agreement will be executed between the Grantee and MDA. The Grant Agreement cannot be executed until all required conditions in these guidelines have been met and all documentation received.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.12 Reimbursement Process. MDA will release ASDP funds on a reimbursement basis for approved eligible costs of the project as incurred. Payments will be only paid directly to the Grantee with proof of payment of eligible costs. Funds will be released upon receipt of the ASDP Form of Requisition and supporting documentation from the Grantee. Funds may not be drawn down more frequently than ever three months.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.13 Required Reports. Grant recipients shall submit to MDA a final report within 45 days of the final disbursement of grant funds under the agreement. The report shall describe in full detail the results of the grant including but not limited to:

- (a) New airline added;
- (b) New destinations or additional frequency added;
- (c) New seats added to the market;
- (d) Impact on fares in the market;
- (e) Financial impact on the airport.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.14 Audit. Funds provided under ASDP are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.15 Waiver. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State law.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.16 Additional Information. Program inquiries and applications should be directed to:

Mississippi Air Service Development Grant Program
Mississippi Development Authority
Post Office Box 849
Jackson, Mississippi 39205
Telephone: (601) 359-3552

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Rule 19.17 Application Requirement. Three (3) copies of the application must be submitted to MDA. MDA will evaluate the application to determine if the project meets the program criteria.

Source: Miss. Code Ann. §57-1-471 (Rev. 2014).

Chapter 20: Mississippi Air Service Growth Program (MASGP)

Rule 20.1 General Authorization and Purpose. In the 2016 legislative session, the Mississippi State Legislature passed HB 1074 creating the “Economic Development and Infrastructure Fund” in order to support infrastructure and transportation needs in counties in which legal gaming is conducted or authorized. Specifically, the law directs the Mississippi Development Authority (MDA) to provide grants:

- A. To assist with construction and repair of infrastructure in counties where legal

gaming is being conducted or is authorized and for structures designed to promote the gaming and entertainment industry in such counties, and

- B. To aid in increasing commercial air service at existing commercial service airports in counties in this state in which legal gaming is being conducted or is authorized by offering to assist Part 121 carriers through the following air service development methods: revenue guaranty, seat guaranty, seat cost mitigation, ground handling and marketing.

House Bill 1074, 2016 Regular Session

Rule 20.2 Legislative Funding Allocation. The Legislature directed MDA to allocate not less than \$2,500,000 annually of funds deposited into the “Economic Development and Infrastructure Fund” for increasing air service in eligible counties. HB 1074 defines eligible air service expansion activities as:

- A. Revenue Guaranty
 - B. Seat Guaranty
 - C. Seat Cost Mitigation
 - D. Ground handling cost mitigation
 - E. Marketing

House Bill 1074, 2016 Regular Session

Rule 20.3 Mississippi Air Service Growth Program Purpose. The Mississippi Air Service Growth Program (MASGP), administered by the Mississippi Development Authority (MDA), is designed for making grants to Commercial Airlines to aid in increasing commercial air service at existing commercial service airports in counties in the state in which legal gaming is being conducted or is authorized. Funding for this program is derived from appropriations or funds otherwise made available by the State Legislature.

House Bill 1074, 2016 Regular Session

Rule 20.4 Eligible Applicants. Any Certified Part 121 Air Carrier that provides additional or new air service to and/or from a commercial service airport in counties in Mississippi in which legal gaming is being conducted or is authorized that have FAR Part 121 air service at the time of the enactment of the program.

House Bill 1074, 2016 Regular Session

Rule 20.5 Definitions.

- A. “Additional Service” is defined as an increase in the number of flights over the highest monthly frequency on passenger service between the commercial service airport and an existing market over the previous twelve (12) months of service, including seasonal service.
- B. “Airport” refers to existing commercial service airports in counties in the state in which legal gaming is being conducted or is authorized.
- C. “Approved Carrier” is an Applicant that has received a grant agreement from MDA.

- D. "Applicant" shall mean a Commercial Airline providing Additional Service or New Service that may have entered into agreements with Mississippi Entities and is applying to MDA under this grant program.
- E. "Commercial Airline" is a Part 121 Air Carrier.
- F. "Expenses Actual" or "Actual Expenses" is defined as the total expense the Applicant incurs in operating the Additional Service and/or New Service at the Airport.
- G. "Expenses Projected" or "Projected Expenses" is defined as the total expense the Applicant reasonably expects to incur in operating the proposed Additional Service and/or New Service at the Airport.
- H. "Grant Period" refers to a period of up to twenty-four (24) months covered under the grant agreement in which MDA is liable for a guaranty or reimbursement of eligible expenses. The Grant Period will begin on a date agreed to in the grant agreement. Based upon the specifics of the grant agreement, the Applicant may provide seasonal service for several months during this period.
- I. "Mississippi Entities" or "Mississippi Entity" for the purpose of this program shall refer to one or more gaming entities, community organizations, or other entities that will contract with a Part 121 air carrier to guarantee or otherwise entice the Applicant to an Airport.
- J. "Minimum Gross Operating Revenue" is the minimum revenue the Applicant reasonably expects to earn to cover its Expenses Projected related to the operation of the proposed Additional Service and/or New Service at the Airport.
- K. "New Service" is defined as a new destination served by a Commercial Airline for passenger service from the Airport, including seasonal service. The service could not have been in place at the Airport by the same Applicant for a minimum of two years prior to application date.
- L. "Return on Investment" is defined as the projected financial impact on a community in additional tax revenue, direct and indirect jobs, and additional community impacts if New Service or Additional Service is brought to the Airport.
- M. "Revenue Actual" or "Actual Revenue" is defined as the total revenue the Applicant realizes from all sources, including any discounts, credits, waivers of fees or the like in operating the proposed Additional Service and/or New Service at the Airport.
- N. "Revenue Projected" or "Projected Revenue" is defined as the total revenue the Applicant reasonably expects to realize from all sources, including any discounts, credits, waivers of fees or the like in operating the proposed Additional Service and/or New Service at the Airport.

House Bill 1074, Regular Session 2016

Rule 20.6 Grant Programs. MDA may award grants to qualified Applicants for several activities allowed for by HB 1074. MDA has categorized the eligible activities into two categories.

- A. MASGP Category 1 Grants. Category 1 grants are of such a nature that an Applicant can only participate in one of these programs at a time. The Applicant must select the Category 1 grant that best serves their needs and apply for only one during a twenty-four (24) month grant period. Applicant can combine the Category 1 grant with either or both of the Category 2 grants, as necessary.

- (i) Revenue Guaranty
- (i) Seat Guaranty

- (ii) Seat Cost Mitigation
- B. MASGP Category 2 Grants. Applicant may receive grants under both Category 2 grant options concurrently. Any Category 1 grant may be paired with either or both Category 2 grants, as necessary.
 - (i) Ground handling cost mitigation
 - (ii) Marketing

House Bill 1074, Regular Session 2016

Rule 20.7 Grant Agreement. MDA and the Applicant will enter into a grant agreement prior to the beginning of the Additional Service or New Service beginning. The Grant Period will be for a term of up to twenty-four (24) months beginning on a date agreed to in the grant agreement. MDA, in its sole discretion, may agree to one optional twelve (12) month extension to the grant agreement after the initial Grant Period. Based upon the specifics of the grant agreement, the Applicant may provide seasonal service for several months during the Grant Period.

House Bill 1074, Regular Session 2016

Rule 20.8 Separate Grant Agreements for Each Eligible Activity. Applicants will be required to enter into a separate grant agreement for each eligible activity they wish to participate in. Applicant may participate in multiple grant activities at the same time, subject to categorical restrictions discussed above and availability of funds. Applicants will be required to adhere to all applicable state and federal law, as well as any existing programmatic guidelines or forthcoming guidelines published by MDA in accordance with proper administrative procedures.

House Bill 1074, Regular Session 2016

Rule 20.9 Amount of Grant Award. The amount of each grant awarded will be based on the Applicant's ability to participate in the project, the degree of need for the air service as determined by the community, the economic impact of the New Service and/or Additional Service on the community, and the availability of funds.

House Bill 1074, Regular Session 2016

Rule 20.10 Failure to Comply with Grant Terms. Failure to comply with grant agreement terms may result in denial of a request for payment under the grant program and/or a request for repayment of grant funds.

House Bill 1074, Regular Session 2016

Rule 20.11 Purpose of the Program. The purpose of the program is to increase air service capacity, frequency, and options for commercial air service passengers and have a long term impact on the local economy. Therefore, the Applicant must commit to making every effort to meet flight and/or passenger load commitments in order to meet revenue projections.

House Bill 1074, Regular Session 2016

Rule 20.12 Maintenance of New or Additional Service. In addition, the Applicant agrees to maintain the New Service and/or Additional Service throughout the term of the Grant Period at the levels agreed to under the terms of the agreement. If the Applicant discontinues the service or makes substantial changes to the flight schedule, aircraft, or other material details in the grant agreement, MDA reserves the right to deny a request for payment and/or terminate the grant agreement.

House Bill 1074, Regular Session 2016

Rule 20.13 Audit. Funds provided under the program may be subject to audit by the State Department of Audit, MDA, or other applicable state entity.

House Bill 1074, Regular Session 2016

Rule 20.14 Amendment of Rules. These guidelines may be amended by MDA at any time, subject to the Administrative Procedures Act. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State law.

House Bill 1074, Regular Session 2016

Rule 20.15 Revenue Guaranty Program. MDA may provide a Revenue Guaranty to the Applicant to ensure a Minimum Gross Operating Revenue, subject to the terms of this program as outlined herein and as may otherwise be stated in the grant agreement (hereinafter "Revenue Guaranty"). A Revenue Guaranty is a Category 1 grant and therefore cannot be paired with a Seat Guaranty or a Cost Mitigation grant.

House Bill 1074, Regular Session 2016

Rule 20.16 Minimum Gross Operating Revenue. MDA and the Applicant will negotiate a mutually agreed upon Minimum Gross Operating Revenue target based on documented and supported market projections.

House Bill 1074, Regular Session 2016

Rule 20.17 Revenue Guarantees. Revenue Guarantees supported through this program will be subject to a dollar cap negotiated within the grant agreement. MDA will consider the type of service, duration and frequency of service, Return on Investment, and other factors when determining the dollar cap.

House Bill 1074, Regular Session 2016

Rule 20.18 Application Process for Revenue Guaranty Program. The Applicant must provide all documentation requested by MDA pertaining to the New Service and/or Additional Service. This information will include, but is not limited to:

- A. Name of the Part 121 Air Carrier

- B. Name and location of the commercial service airport
- C. Additional or new destination to be serviced by the Applicant as a result of the grant.
- D. Projected start date of New Service and/or Additional Service
- E. Frequency of flights being proposed
- F. Increase over current flight frequency
- G. Projected passenger load for New Service and/or Additional Service
- H. Increase over existing passenger counts
- I. Justification of the market demand for New Service and/or Additional Service
- J. Letter of support from the Mississippi airport or community with Return on Investment for the community
- K. Applicant financials as reported to the US Department of Transportation
- L. Projected gross revenues based on the number of flights and/or passengers as well as additional revenues Applicant reasonably expects to achieve through operating the service.
- M. Aircraft type to provide the New Service and/or Additional Service, with seating capacity
- N. Minimum Gross Operating Revenue Guaranty requested with justification
- O. Copies of agreement(s) between the Applicant and Mississippi Entities for guaranteed service, marketing and other incentives

House Bill 1074, Regular Session 2016

Rule 20.19 Additional Considerations for Grant Evaluation under the Revenue Guaranty Program. MDA may take into account the Applicant's history of reliability in providing scheduled air service when evaluating the grant application.

House Bill 1074, Regular Session 2016

Rule 20.20 Reporting Requirements for Revenue Guaranty Program. The Applicant shall submit a quarterly report to MDA during the term of the grant agreement that will provide monthly information on the status of the Additional Service and/or New Service. This report will include the following:

- A. Projected v. Actual additional flights
- B. Projected v. Actual additional passengers
- C. Projected Revenues v. Actual Revenues
- D. A statement describing the reason(s) for any shortfall in revenues, as well as supporting documentation.
- E. A statement explaining how the Approved Carrier is addressing the reason(s) for any shortfall in Projected Revenue.

House Bill 1074, Regular Session 2016

Rule 20.21 Reporting Time Limitations for Revenue Guaranty Program. Reports shall be submitted no later than thirty (30) days following the end of the quarter and in a manner prescribed by MDA.

House Bill 1074, Regular Session 2016

Rule 20.22 Payment Requirements under Revenue Guaranty Program. The Approved Carrier shall provide MDA with adequate documentation to quantify the Actual Revenue of the New Service and/or Additional Service covered by the agreement. MDA reserves the right to request additional documentation in order to confirm that information. MDA and the Applicant shall jointly agree on Actual Revenue and the actual amount of shortfall, if applicable, prior to any payment being made. In the event that Projected Revenues were not met during that period, MDA will make a payment to the Applicant in the amount of the difference between the Projected Revenue and Actual Revenue.

House Bill 1074, Regular Session 2016

Rule 20.23 Method to Apply for Payment under the Revenue Guaranty Program. An Approved Carrier may apply to MDA for a payment under the grant program at the end of each twelve (12) month period (not to exceed two requests in any twenty-four (24) month period), if the Approved Carrier did not achieve its Minimum Gross Operating Revenue during the previous twelve (12) month period. For those Approved Carriers only providing seasonal service, MDA may negotiate a more frequent payment plan but shall not make a payment more than twice in a twelve (12) month period. Applicant has a maximum of six (6) months from the end of the Grant Period to make a final Request for Payment.

House Bill 1074, Regular Session 2016

Rule 20.24 Use of Required Form for Payment Requests under Revenue Guaranty Program. An Approved Carrier shall request payment on the guaranty in a form required by MDA.

House Bill 1074, Regular Session 2016

Rule 20.25 MDA's Obligation to Honor Guaranty. MDA is only obligated to honor the guaranty on actual flights flown.

House Bill 1074, Regular Session 2016

Rule 20.26 Maximum Amount of Time MDA is Allowed to Make Payments. State law permits MDA a maximum of forty-five (45) days to make a payment to the Applicant once all documentation and a proper Request for Payment has been received.

House Bill 1074, Regular Session 2016; Miss. Code Ann. §31-7-305(2) (Rev. 2010).

Rule 20.27 Seat Guaranty. The Applicant may seek from MDA a guaranty of the number of seats constituting the difference between the air service provider's required seat block commitment and what the Mississippi Entities can commit to purchase or guarantee (hereinafter "Seat Guaranty"). A Seat Guaranty is a Category 1 grant and therefore cannot be paired with a Revenue Guaranty or a Cost Mitigation grant.

House Bill 1074, Regular Session 2016

Rule 20.28 Guaranty Contingent upon Certain Applicant Agreements. MDA's guaranty will be contingent upon the Applicant and at least one Mississippi entity entering into an agreement whereby the Mississippi entity has guaranteed a seat block. MDA's seat guaranty will be in addition to any block of seats guaranteed by Mississippi Entities in order to reach the total number of guaranteed seats required by the Applicant.

- A. The MDA guaranty will be capped at ten percent (10%) of the available seats on the aircraft identified by the Applicant in its grant application used for the New Service or Additional Service.
- B. Seat Guarantees supported through this program will be subject to a dollar cap negotiated within the grant agreement. MDA will consider the type of service, size of aircraft, duration and frequency of service, Return on Investment, and other factors when determining the dollar cap.
- C. In the event that the Applicant cannot fill the required seats with the passenger loads from its New Service or Additional Service, MDA will make a payment on its portion of the seat guaranty subject to the guidelines below.

House Bill 1074, Regular Session 2016

Rule 20.29 Application for Seat Guaranty Program. The Applicant must provide all documentation requested by MDA pertaining to the New Service and/or Additional Service. This information will include, but is not limited to:

- A. Name of the Part 121 Air Carrier
- B. Name and location of the commercial service airport
- C. Additional or new destination to be serviced by the Applicant as a result of the grant
- D. Projected start date of New Service and/or Additional Service
- E. Frequency of flights being proposed
- F. Increase over current flight frequency
- G. Projected passenger load requirement for New Service and/or Additional Service
- H. Increase over existing passenger counts
- I. Justification of the market demand for New Service and/or Additional Service
- J. Letter of support from the Mississippi airport or community with Return on Investment for the community
- K. Applicant financials as reported to the US Department of Transportation
- L. Aircraft to service the New Service and/or Additional Service, with seating capacity
- M. Copies of agreement(s) between the Applicant and Mississippi Entities for guaranteed service, marketing and other incentives
- N. Number / Percent of seats guaranteed by all Mississippi Entities
- O. Requested number of seats to be guaranteed by MDA, with associated costs

House Bill 1074, Regular Session 2016

Rule 20.30 Additional Considerations for Grant Evaluation under the Seat Guaranty Program. MDA may take into account the Applicant's history of reliability in providing scheduled air service when evaluating the grant application.

House Bill 1074, Regular Session 2016

Rule 20.31 Reporting Requirements for Seat Guaranty Program. The Applicant shall submit a quarterly report to MDA during the term of the grant agreement that will provide monthly information on the status of the New Service and/or Additional Service. This report will include the following:

- A. Projected v. Actual additional flights
- B. Projected v. Actual additional passengers
- C. Projected v. Actual passenger loads

House Bill 1074, Regular Session 2016

Rule 20.32 Reporting Time Limitations for Seat Guaranty Program. Reports shall be submitted no later than thirty (30) days following the end of the quarter and in a manner prescribed by MDA.

House Bill 1074, Regular Session 2016

Rule 20.33 Payment Requirements under Seat Guaranty Program. The Applicant shall provide MDA with adequate documentation to quantify the passenger loads of the New Service and/or Additional Service covered by the agreement. MDA reserves the right to request additional documentation in order to confirm that information. MDA and the Applicant shall jointly agree on actual passenger loads and the actual amount of shortfall, if applicable, prior to any payment being made. In the event that seat projections were not met during that period, MDA will make a payment to the Applicant in the amount of the costs of the seats guaranteed.

House Bill 1074, Regular Session 2016

Rule 20.34 Method to Apply for Payment under the Seat Guaranty Program. An Approved Carrier may apply to MDA for a payment under the Seat Guaranty program at the end of each twelve (12) month period (not to exceed two requests in any twenty-four (24) month period), if the Approved Carrier did not fill the required number of seats negotiated in the grant agreement during the previous twelve (12) month period. For those Approved Carriers only providing seasonal service, MDA may negotiate a more frequent payment plan but shall not make a payment more than twice in a twelve (12) month period. Applicant has a maximum of six (6) months from the end of the Grant Period to make a final Request for Payment.

House Bill 1074, Regular Session 2016

Rule 20.35 Use of Required Form for Payment Requests under Seat Guaranty Program. An Approved Carrier shall request payment on the guaranty in a form required by MDA.

House Bill 1074, Regular Session

Rule 20.36 MDA's Obligation to Honor Guaranty under Seat Guaranty Program. MDA is only obligated to honor the guaranty on actual flights flown.

House Bill 1074, Regular Session

Rule 20.37 Maximum Amount of Time MDA is Allowed to Make Payments under Seat Guaranty Program. State law permits MDA a maximum of forty-five (45) days to make a payment to the Applicant once all documentation and a proper Request for Payment has been received.

House Bill 1074, Regular Session; Miss. Code Ann. §31-7-305(2) (Rev. 2010)

Rule 20.38 Seat Cost Mitigation. MDA may assist Applicants in meeting the required per-seat fare minimums for New Service and/or Additional Service. In the event that a Mississippi Entity negotiates an agreement with an Applicant to bring Additional Service or New Service to the state but the Mississippi Entity cannot meet the necessary minimum fares required by the Applicant, MDA may enter into a grant agreement with the Applicant to cover the difference between what the Mississippi Entity can commit to pay and what the Applicant requires (hereinafter “Seat Cost Mitigation”). Seat Cost Mitigation is a Category 1 grant and therefore cannot be paired with a Revenue Guaranty or Seat Guaranty.

House Bill 1074, Regular Session 2016

Rule 20.39 Limitations on Amount of Seat Cost Mitigation. MDA will not agree to cover more than twenty-five percent (25%) of the per-seat fare cost. Seat Cost Mitigation grants will be subject to a dollar cap negotiated within the grant agreement. MDA will consider the type of service, size of aircraft, duration and frequency of service, Return on Investment, and other factors when determining the dollar cap.

House Bill 1074, Regular Session 2016

Rule 20.40 Application Process for Seat Cost Mitigation. The Applicant must provide all documentation requested by MDA pertaining to the New Service and/or Additional Service. This information will include, but is not limited to:

- A. Name of the Part 121 Air Carrier
- B. Name and location of the commercial service airport
- C. Additional or new destination to be serviced by the Applicant as a result of the grant
- D. Projected start date of New Service and/or Additional Service
- E. Frequency of flights being proposed
- F. Increase over current flight frequency
- G. Projected passenger load for New Service and/or Additional Service
- H. Increase over existing passenger counts
- I. Justification of the market demand for New Service and/or Additional Service
- J. Letter of support from the Mississippi airport or community with Return on Investment for the community
- K. Applicant financials as reported to the US Department of Transportation
- L. Aircraft type to provide the New Service and/or Additional Service, with seating capacity
- M. Number / Percent of seats guaranteed by all entities
- N. Total seat cost mitigation budget request, with justification
- O. Copies of agreement(s) between the Applicant and Mississippi Entities for guaranteed service, marketing and other incentives

House Bill 1074, Regular Session 2016

Rule 20.41 Additional Considerations for Grant Evaluation of Seat Cost Mitigation. MDA may take into account the Applicant's history of reliability in providing scheduled air service when evaluating the grant application.

House Bill 1074, Regular Session 2016

Rule 20.42 Reporting Requirements for Seat Cost Mitigation. The Applicant shall submit a quarterly report to MDA during the term of the grant agreement that will provide monthly information on the status of the New Service and/or Additional Service. This report will include the following:

- A. Projected v. Actual additional flights
- B. Projected v. Actual additional passengers
- C. Projected v. Actual seat costs

House Bill 1074, Regular Session 2016

Rule 20.43 Time Limitations on Submission of Reports for Seat Cost Mitigation. Reports shall be submitted no later than thirty (30) days following the end of the quarter and in a manner prescribed by MDA.

House Bill 1074, Regular Session 2016

Rule 20.44 Method to Submit Request for Reimbursement under Seat Cost Mitigation. The Applicant shall submit a Request for Payment to MDA requesting a reimbursement for the portion of the seat fare that MDA has committed to pay in accordance with the terms of the grant agreement. The Request for Payment must be accompanied by adequate documentation. MDA reserves the right to request additional documentation if necessary. MDA and the Applicant shall jointly agree on the actual amount of seat cost mitigation needs, if applicable, prior to any payment being made.

House Bill 1074, Regular Session 2016

Rule 20.45 Method to Apply for Payment under the Seat Cost Mitigation. An Approved Carrier may apply to MDA for a payment under the Seat Cost Mitigation program at the end of each twelve (12) month period (not to exceed two requests in any twenty-four (24) month period), if the Approved Carrier did not receive the seat fares negotiated in the grant agreement during the previous twelve (12) month period. For those Approved Carriers only providing seasonal service, MDA may negotiate a more frequent payment plan but shall not make a payment more than twice in a twelve (12) month period. Applicant has a maximum of six (6) months from the end of the Grant Period to make a final Request for Payment.

House Bill 1074, Regular Session 2016

Rule 20.46 Use of Required Form for Payment Requests under Seat Cost Mitigation. An Approved Carrier shall request payment on the guaranty in a form required by MDA.

House Bill 1074, Regular Session 2016

Rule 20.47 MDA's Obligation to Honor Guaranty under Seat Cost Mitigation. MDA is only obligated to make payments on actual flights flown.

House Bill 1074, Regular Session 2016

Rule 20.48 MDA's Obligation to Honor Guaranty Payments under Seat Cost Mitigation. State law permits MDA a maximum of forty-five (45) days to make a payment to the Applicant once all documentation and a proper Request for Payment has been received.

House Bill 1074, Regular Session 2016; Miss. Code Ann. §31-7-305(2) (Rev. 2010)

Rule 20.49 Ground Handling Fees. Eligible Applicants may apply to MDA to defray the costs associated with utilizing an Airport in a county in which legal gaming is conducted or authorized. Approved Carriers may utilize third party ground handling firms and be reimbursed for those contractual costs with appropriate documentation. Ground handling fees include but are not limited to:

- A. Ground Handling Services Above Wing:
 - (i) Customer Service Personnel
 - (ii) Passenger check in and ticketing
 - (iii) Passenger boarding
 - (iv) Skycaps and other special services
 - (v) Baggage services
 - (vi) Lost and found services
 - (vii) Turn Clean / RON Clean
 - (viii) Provision of ice
 - (ix) Dispose of refuse
 - (x) Provide Ground Security Coordinator and LCRO
- A. Ground Handling Services Below Wing:
 - (i) Aircraft pushback and towing
 - (ii) Aircraft marshalling
 - (iii) Aircraft loading and unloading
 - (iv) Aircraft De-icing
 - (v) Lavatory servicing
 - (vi) Provision of potable water
- B. Turn Price – allowable reimbursement expenses:
 - (i) Two customer service agents
 - (ii) Three ramp agents
 - (iii) One supervisor / Ground Service Security Coordinator and LCRO
 - (iv) Above and Below Wing services with use of ACAS ground equipment
 - (v) Air to ground communications

House Bill 1074, Regular Session 2016

Rule 20.50 Grant Fund Cap for Ground Handling Fees. Grant funds are capped at not more than fifty percent (50%) of the total ground handling fees incurred by the Approved Carrier for the New Service and/or Additional Service during the twenty-four (24) month period, or \$350,000, whichever is less.

House Bill 1074, Regular Session 2016

Rule 20.51 Application Process for Ground Handling Fees. The Applicant must provide all documentation requested by MDA pertaining to the New Service and/or Additional Service. This information will include, but is not limited to:

- A. Name of the Part 121 Air Carrier
- B. Name and location of the commercial service airport
- C. Additional or new destination to be serviced by the Applicant as a result of the grant
- D. Projected start date of New Service and/or Additional Service
- E. Frequency of flights being proposed
- F. Increase over current flight frequency
- G. Projected passenger load for New Service and/or Additional Service
- H. Increase over existing passenger counts
- I. Justification of the market demand for New Service and/or Additional Service
- J. Letter of support from the Mississippi airport or community with Return on Investment for the community
- K. Applicant financials as reported to the US Department of Transportation
- L. Aircraft type to service provide the New Service and/or Additional Service, with seating capacity
- M. Total ground handling costs budget based on the New Service and/or Additional Service, with documentation
- N. Requested grant funds budget to offset ground handling fees
- O. Copy of agreement(s) agreements between the Applicant and Mississippi entity for guaranteed service

House Bill 1074, Regular Session 2016

Rule 20.52 Reporting Requirements for Ground Handling Fees. The Applicant shall submit a quarterly report to MDA during the term of the grant agreement that will provide monthly information on the status of the New Service and/or Additional Service. This report will include the following:

- A. Projected v. Actual additional flights
- B. Projected v. Actual additional passengers
- C. Projected v. Actual ground handling fees

House Bill 1074, Regular Session 2016

Rule 20.53 Reporting Requirements for Ground Handling Fees. Reports shall be submitted no later than thirty (30) days following the end of the quarter and in a manner prescribed by MDA.

House Bill 1074, Regular Session 2016

Rule 20.54 Requirements for Payment Reimbursement Requests for Ground Handling Fees. The Request for Payment for reimbursement of ground handling fees must be accompanied by documentation of actual invoices, bills, labor hours, payroll, or other documentation that details the costs incurred in the eligible categories. In addition, documentation showing that the Approved Carrier has paid those fees should accompany the request.

Rule 20.55 Method to Apply for Payment for Ground Handling. An Approved Carrier may apply to MDA for a payment under the program at the end of each twelve (12) month period (not to exceed two requests in any twenty-four (24) month period). For those Approved Carriers only providing seasonal service, MDA may negotiate a more frequent payment plan but shall not make a payment more than twice in a twelve (12) month period. Applicant has a maximum of six (6) months from the end of the Grant Period to make a final Request for Payment.

House Bill 1074, Regular Session 2016

Rule 20.56 Use of Required Form for Payment Requests for Ground Handling Fees. An Approved Carrier shall request payment on the guaranty in a form required by MDA.

House Bill 1074, Regular Session 2016

Rule 20.57 MDA's Obligation to Honor Guaranty for Ground Handling Fees. MDA is only obligated to make payments on actual flights flown.

House Bill 1074, Regular Session 2016

Rule 20.58 MDA's Obligation to Honor Payments for Ground Handling Fees. State law permit MDA a maximum of forty-five (45) days to make a payment to the Applicant once all documentation and a proper Request for Payment has been received.

House Bill 1074, Regular Session 2016; Miss. Code Ann. §31-7-305(2) (Rev. 2010)

Rule 20.59 Marketing. This program allows for cost matching to the Approved Carrier of marketing and related direct promotional expenses that promote the New Service and/or Additional Service to local and other audiences. Marketing and promotional expenses include ad placement costs for television, digital, radio, print, outdoor, direct mail, or other approved media. Printing costs are allowable. Ad development fees and commissions are not eligible.

House Bill 1074, Regular Session 2016

Rule 20.60 MDA Matching Funds. MDA will match on a 1 to 1 basis, up to \$200,000 during the twenty-four (24) month period, the funds contributed by the Approved Carrier and/or Mississippi Entities toward the promotion of the New Service and/or Additional Service covered under the grant agreement. MDA will only make a payment to the Approved Carrier or the advertising agency directly contracted by the Approved Carrier. MDA will match on a 1 to 1 basis the total contribution of all parties toward the Approved Carrier or its advertising agency based on adequate

documentation, as approved by MDA. For example, if the Approved Carrier contributes \$75,000 and other Mississippi Entities contribute \$75,000 toward marketing the New Service and/or Additional Service through the Approved Carrier's advertising agency, then MDA may match \$150,000 to increase the advertising agency's campaign to \$300,000 total.

House Bill 1074, Regular Session 2016

Rule 20.61 Marketing and Advertising Promotion Targets. Marketing and advertising must specifically promote the New Service and/or Additional Service covered under the grant agreement and should fairly represent all of the amenities that the Mississippi community has to offer. Preferably, other Mississippi Entities are marketing the service as well. Generic airline marketing costs will not be considered for matching.

House Bill 1074, Regular Session 2016

Rule 20.62 Requirements for All Ads. All ads supported through this program must contain Mississippi attribution. For television, print, outdoors, and digital ads, the Visit Mississippi logo and website www.visitmississippi.org must be included. For radio and television, the following phrase must be included: "This advertisement is partially funded by the State of Mississippi. Visit www.visitmississippi.org for more information."

House Bill 1074, Regular Session 2016

Rule 20.63 Application Process for Marketing. The Applicant must provide all documentation requested by MDA pertaining to the New Service and/or Additional Service. This information will include, but is not limited to:

- A. Name of the Part 121 Air Carrier
- B. Name and location of the commercial service airport
- C. Additional or new destination to be serviced by the Applicant as a result of the grant
- D. Projected start date of New Service and/or Additional Service
- E. Frequency of flights being proposed
- F. Increase over current flight frequency
- G. Projected passenger load for New Service and/or Additional Service
- H. Increase over existing passenger counts
- I. Justification of the market demand for New Service and/or Additional Service
- J. Letter of support from the Mississippi airport or community with Return on Investment for the community
- K. Applicant financials as reported to the US Department of Transportation
- L. Aircraft type to service provide the New Service and/or Additional Service, with seating capacity
- M. Total advertising and marketing costs based on the New Service and/or Additional Service, with documentation
- N. Requested grant funds to offset advertising and marketing fees
- O. Other funding or in-kind support from the Mississippi Entities, including the Airport, local tourism promotion agency, or other entity
- P. Media plan which includes the following:

- (i) Means of distribution (print, radio, outdoor, digital, etc.)
- (ii) Description of the ad buy (impacted markets, dates the ads will run, etc.)
- (iii) Advertising copy
- (iv) Size of the ad buy

House Bill 1074, Regular Session 2016

Rule 20.64 Monthly Reporting Requirements for Marketing. The Approved Carrier shall submit a quarterly report to MDA during the term of the grant agreement that will provide monthly information on the status of the New Service and/or Additional Service. This report will include the following:

- A. Projected v. Actual additional flights
- B. Projected v. Actual additional passengers
- C. Marketing placement report by Approved Carrier

House Bill 1074, Regular Session 2016

Rule 20.65 Time Limitations on Submission of Reports for Marketing. Reports shall be submitted no later than thirty (30) days following the end of the quarter and in a manner prescribed by MDA.

House Bill 1074, Regular Session 2016

Rule 20.66 Required Analytic Reports for Marketing. In addition, Approved Carriers must provide an analytic report on the reach and impact of the advertising and marketing campaign at the end of the Grant Period. The methodology behind the analytics must be included in this report.

House Bill 1074, Regular Session 2016

Rule 20.67 Method to Submit Request for Reimbursement for Marketing. The Approved Carrier may submit a Request for Payment form for matching of advertising and marketing fees as required by MDA. The Request for Payment must be accompanied by documentation of actual invoices, bills, or other documentation that details the costs incurred in the eligible categories. In addition, documentation showing that the Approved Carrier has incurred or paid those fees should accompany the request.

House Bill 1074, Regular Session 2016

Rule 20.68 45 Method to Apply for Payment for Marketing. An Approved Carrier may apply to MDA for a payment under the Marketing program at the end of each twelve (12) month period (not to exceed two requests in any twenty-four (24) month period). For those Approved Carriers only providing seasonal service, MDA may negotiate a more frequent payment plan but shall not make a payment more than twice in a twelve (12) month period. Applicant has a maximum of six (6) months from the end of the Grant Period to make a final Request for Payment.

House Bill 1074, Regular Session 2016

Rule 20.69 MDA's Obligation to Honor Payments for Marketing. State law permit MDA a maximum of forty-five (45) days to make a payment to the Applicant once all documentation and a proper Request for Payment form has been received.

House Bill 1074, Regular Session 2016; Miss. Code Ann. §31-7-305(2) (Rev. 2010)

Rule 20.70 Grant Selection Process for Mississippi Air Service Growth Program. The only funds available for the Mississippi Air Service Grant Program are those specifically appropriated into the program by the Legislature. As such, there may be limited funds available. MDA reserves the right to use a competitive selection process when making decisions on allocation of funds.

House Bill 1074, Regular Session 2016

Rule 20.71 Evaluation of Application for Mississippi Air Service Growth Program. MDA will evaluate each application based on the completeness of the application and required documentation. MDA reserves the right to reject an application that does not meet the statutory requirements, guidelines, or program goals, or fails to adequately address all requested information in the application process.

House Bill 1074, Regular Session 2016

Rule 20.72 Priority Given to Certain Eligible Applicants. Priority will be given to those eligible Applicants that can demonstrate the following:

- A. Commitment to long term service at the eligible Airport
- B. Positive Return on Investment by generating additional tourism visitors, a growth in local tax and gaming revenue, increasing in productivity for local business travelers, promotion of Mississippi as a destination, or other factors
- C. The degree of need for the air service
- D. A sound business plan and a history of meeting customer needs

House Bill 1074, Regular Session 2016

Rule 20.73 Requirement to Submit Certain Number of Copies of Application. Two (2) copies of the application must be submitted to the Financial Resources Division of MDA, Air Service Grant Program, Post Office Box 849, Jackson, Mississippi, 39205, or hand-delivered to the 15th Floor of the Woolfolk Office Building, Jackson, Mississippi.

House Bill 1074, Regular Session 2016

Rule 20.74 Staff Review of Applications. MDA staff will review the application and supporting material and will make a decision. MDA reserves the right to modify the requested amount

House Bill 1074, Regular Session 2016

Rule 20.75 Additional Information. Program inquires and applications should be directed to:

- A. Mississippi Development Authority
Financial Resources Division

Post Office Box 849
Telephone: (601) 359-2415 ~ Fax: (601) 359-3619 Jackson, Mississippi 39205

House Bill 1074, Regular Session 2016

Rule 20.76 Amendment and/or Waiver of Guidelines. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such action is to promote the public purpose of the enacting legislation and is not prohibited by state law.

House Bill 1074, Regular Session 2016

Part 1 Chapter 21: Mississippi Ports Improvements Fund Grant Program

Rule 21.1 Purpose. The Mississippi Ports Improvements Grant Program ("PORTS Program"), administered by the Mississippi Development MDA ("MDA") is designed to assist in paying a portion of the costs associated with the repair, rehabilitation, construction, reconstruction, upgrading and improvement of existing port facilities, including projects necessary to ensure safety and structural integrity of such facilities, at state, county, or municipal port authorities ("Entity") in the state of Mississippi (the "State"). The PORTS Program was enacted by the State Legislature during the 2019 Regular Legislative Session.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.2 Eligible Entities. Entities considered to be eligible applicants are state, county, and municipal ports authorized to operate in the State. In order to obtain assistance under the Ports Grant Program, an Entity's governing board (the "Governing Board") must submit an application to MDA, which will forward copies of such application to members of the Ports Improvements Fund Advisory Committee for review. Within thirty (30) days of receipt of the application, the Ports Improvements Fund Advisory Committee will make a written recommendation to MDA specifically outlining their assessment of the application.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.3 Eligible Projects. Projects which are eligible for assistance must be directly related to the port facility and are limited to repair, rehabilitation, construction, reconstruction, upgrading and improvement of existing facilities.

- A. PORTS Program grant funds may not be used for working capital, for general expenditures, which would normally be covered under an applicant's general operation budget, nor to provide facilities for utilization by a gambling vessel.
- B. A limited amount of funds may be used for engineering/architectural cost. The amount of these professional services will be limited to an amount not to exceed 10% of the PORTS grant award amount.
- C. All funds awarded must be spent for improvements within the scope of the original project description as stated in the grant application.

- D. Additionally, if grant recipients complete their project for less than the grant amount awarded, the excess funds can be requested for additional project work as long as there is no change from the scope of the original project.
- E. In no case, however, will an approved applicant be allowed to use excess grant funds to pay for project costs that vary from the original project description.
- F. All requested changes and variances from the original application should be made in writing and will be reviewed by MDA on a case-by-case basis.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.4 Application Requirements. To apply for the PORTS Program, a completed application that is submitted by an Entity must include:

- A. Purpose of the proposed grant including a list of eligible items and the cost of each;
- B. The estimated cost of the total project, a description of the Applicant's investment in the project, and all public or private sources of funding that have been secured and that will be utilized exclusively for the project;
- C. Time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
- D. Engineering documentation (Must be on the engineer's letterhead, with the engineer's stamp/seal and signature);
- E. Current employment levels at the project site and estimated increase, if any, as a result of financing the project;
- F. One (1) copy of the application must be submitted to the Financial Resources Division of MDA, Ports Grant Program, Post Office Box 849, Jackson, Mississippi 39205 or hand-delivered to the 15th floor of the Woolfolk Office Building, 501 N West St, Jackson, MS 39201.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.5 Ports Improvements Fund Advisory Committee. The Ports Improvements Fund Advisory Committee shall have a membership consisting of:

- A. Six (6) directors of ports, appointed by the President of the Mississippi Ports Council, or his or her designee, as follows:
 - 1. Two (2) directors of coastal ports
 - 2. Two (2) directors of inland river ports located on the Mississippi River
 - 3. Two (2) directors of inland ports located on the Tennessee-Tombigbee Waterway;
 and
- B. The Executive Director of MDA, or his or her designee.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.6 General Grant Terms.

- A. The program intent is to stimulate growth and economic development through port infrastructure in the State.
- B. The amount of each grant awarded will be based on the applicant's ability to participate in the project, the degree of need for the improvements, the lack of availability of other funding sources, the timeframe required to perform the improvements, the economic impact of the project on the community, and other criteria MDA develops.
- C. Each application will be evaluated on its own merit to meet the intent of the program.
- D. Each applicant must certify that they will perform standard maintenance for a minimum of three years after the project is completed.
- E. A minimum of 10% of the total project cost is required as match on all grant awards.
- F. Failure to comply with Grant terms may result in repayment of grant funds.
- G. The terms of a grant shall be within the discretion of the MDA.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.7 Conditions for Disbursement of Funds. A grant agreement will be executed between the Entity and MDA prior to disbursement of grant funds. Only project costs incurred after execution of the grant agreement will be eligible for reimbursement with grant funds.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.8 Reimbursement Process.

- A. MDA will release PORTS program funds on a reimbursement basis for approved eligible costs of the project as incurred.
- B. The Entity shall certify to MDA during construction that the expenses were incurred and were in accordance with the plans and application approved by MDA.
- C. Funds will be released upon receipt of the PORTS Program Form of Requisition and supporting documentation from the Entity.
- D. Funds may only be drawn down once a month
- E. Applicants have two (2) years from the date of the grant agreement to request reimbursement for project costs.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.9 Audit. Grants made under the PORTS Grant Program are subject to audit by MDA and the Office of the State Auditor.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.10 Waiver. These Rules and Regulations may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State Law.

Source: Miss. Code Ann. § 57-1-731.

Rule 21.11 Compliance with Federal Immigration Laws and Mississippi Employment Protection Act. The Entity and/or Project contractors are required to ensure compliance with the Mississippi Employment Protection Act (“MEPA”), Miss. Code. Ann. § 71-11-3 et seq., and must ensure that the Entity and/or Project contractors register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Entity and/or Project contractors must maintain records of such compliance and, upon request of the State of Mississippi and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Any person assigned to perform services must meet the employment eligibility requirements of all federal and state immigration laws. Any breach may subject the Entity to the following: (a) termination of the Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to the company by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, the Entity and/or Project contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

Source: Miss. Code Ann. § 71-11-3; Miss. Code Ann. § 57-1-371; Miss. Code Ann. § 57-1-373; Miss. Code Ann. § 57-1-731.

Program inquiries should be directed to:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
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Adopted: May 24, 2022

Part 1 Chapter 22: Mississippi Industry Incentive Financing Revolving Fund Program

Rule 22.1 Program Objective. The Mississippi Industry Incentive Financing Revolving Fund ("Industry Incentive Program") is administered by the Mississippi Development Authority ("MDA") and is designed to make grants or loans to local governments including, but not limited to, counties, municipalities, industrial development authorities and economic development districts, and approved business enterprises to construct or otherwise provide facilities related to a specific Project. Local governments are authorized to accept grants and enter into loans authorized

under the program, and to sell, lease or otherwise dispose of a Project or any property related to the Project in whole or in part. The terms of a grant or loan and the manner of repayment of any loan shall be within the discretion of the MDA.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.2 Program Terms.

- (1) “Approved business enterprise” means any Project that:
 - (a) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of two hundred fifty (250) new, full-time jobs with a total capital investment in the state of a minimum of Thirty Million Dollars (\$30,000,000.00) in Tier 1 or Tier 2 Counties;
 - (b) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of one hundred fifty (150) new, full-time jobs with a total capital investment in the state of a minimum of Fifteen Million Dollars (\$15,000,000.00) in areas federally designated as low-income census tracts;
 - (c) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of one thousand (1,000) new, full-time jobs;
 - (d) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, with significant regional impact solely determined by MDA.

- (2) “Capital Investment” means the direct expenditure of money by the approved business for a new establishment or an addition to an existing establishment, including the purchasing or improving of real property and tangible personal property, whose useful life exceeds one year, and which is used in the conduct of the business. The valuation of an economic impact analysis does not qualify as a “Capital Investment.”

- (3) “Facility related to the Project” means and includes any of the following, as they may pertain to the Project:
 - (a) Facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas, and electric transmission systems to the site of the Project;
 - (b) Building facilities and equipment necessary to operate the facility;
 - (c) Rail lines;
 - (d) Airports, airfields, air terminals and port facilities;

- (e) Highways, streets and other roadways;
 - (f) Fire protection facilities, equipment, and elevated water tanks.
- (4) “Project” means any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise that is approved by the MDA. The Project or business may also not be engaged in producing or distributing medical cannabis as defined in the Mississippi Medical Cannabis Act.
- (5) “Tier 1 and Tier 2 counties” means areas designated in accordance with Miss. Code Ann. § 57-73-21. The state’s eighty-two counties are divided between three tiers with Tier 1 (twenty-seven) counties having a combination of the lowest unemployment and highest per capita income and Tier 2 (twenty-seven) counties having a combination of the next lowest unemployment and next highest per capita income.

Source: Miss. Code Ann. § 57-1-221; Miss. Code Ann. § 57-73-21.

Rule 22.3 Eligibility Criteria. To be eligible, a business must qualify as an approved business enterprise to receive assistance under the Industry Incentive Program. An Approved Business Enterprise means any Project that:

- (a) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of 250 new, full-time jobs with a total capital investment in the state of a minimum of \$30,000,000 in Tier 1 or Tier 2 counties; or
- (b) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of 150 new, full-time jobs with a total capital investment of \$15,000,000 in areas federally designated as low-income census tracts; or
- (c) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, and creates a minimum of 1,000 new, full-time jobs; or
- (d) Locates or expands in this state, including any federal Indian reservation located within the geographical boundary of this state, with significant regional impact as determined by MDA.

The business must be financially sound, present evidence that the business can repay any debt, and must not have defaulted on any previous loan from the State or Federal Government.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.4 Eligible Projects. Eligible companies may utilize the Industry Incentive Program for the following Projects:

- (a) Facilities to provide portable and industrial water supply systems, sewage and waste disposal systems and water, natural gas, and electric transmission systems to the site of the Project;
- (b) Building facilities and equipment necessary to operate the facility;
- (c) Rail lines;
- (d) Airports, airfields, air terminals and port facilities;
- (e) Highways, streets and other roadways;
- (f) Fire protection facilities, equipment, and elevated water tanks.

Loan or grant proceeds may not be used for working capital, debt refinancing or rolling stock. Engineering, Architectural, Project Management and other soft costs shall not exceed 10% of the MDA grant or loan amount.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.5 Bidding Requirements. Contracts, by local governments, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a Project may be exempt from the bidding requirement provisions of Miss. Code Ann. § 31-7-13 and may entered into on the basis of negotiation if:

- (a) MDA finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this section to enter into such contracts on the basis of Section 31-7-13;
- (b) The approved business enterprise that is involved in the project concurs in such finding.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.6 Loan Repayment. The timing of principal and interest payments will be determined by MDA through the application process, with a fixed amount to be paid over the life of the loan.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.7 Liens and Collateral. At the discretion of MDA, a loan may need to be secured by a lien of such type that provides adequate security for MDA to recover its investment in case of default on the loan. Liens may be in the form of personal guarantees, liens on the equipment installed or security interest in other assets. It should be noted MDA may require a one percent (1%) good faith deposit on all Projects.

Individuals or entities with twenty percent (20%) or more ownership in the business may be required to provide personal guaranties and life insurance.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.8 Application. One copy of the application are to be submitted by a business and must include:

- (a) Documentation that the Entity is an Approved Business Enterprise;
- (b) Purpose of the proposed loan or grant including a list of eligible items and the estimated cost of each;
- (c) Documentation on how the financing of the Project will improve productivity and competitiveness;
- (d) Estimated cost of the total Project with a detailed breakdown of all public or private sources of funding;
- (e) Time schedule for implementation and completion of the Project, evidencing an expeditious completion of the Project;
- (f) Submit business balance sheets, income statements and statements of cash flow for the previous three (3) fiscal years and current statements dated within ninety (90) days of application or three (3) years of tax returns;
- (g) A two (2) year business plan for the Project; and
- (h) List of principal stockholders, partners, or parties who have ownership of twenty percent (20%) or more. A credit report may be required for each.
- (i) MDA may require additional information as needed.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.9 Loan Closing. Based upon the terms and conditions established by MDA, MDA will prepare all security and loan documents, including but not limited to, the Loan Agreement and Promissory Note, (collectively "Loan Documents"). Prior to disbursement of any funds, all Loan Documents must be fully executed. The Borrower will also be responsible for paying all costs associated with the closing of the loan, including attorneys' fees, document preparation, title searches, title insurance and filing fees.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.10 Grant Closing. MDA will provide all documents needed to close the grant upon full approval and presentation of all required information.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.11 Reimbursement Process. The MDA will release loan and grant funds on a reimbursement or services rendered basis for approved eligible costs of the Project as incurred.

The Approved business enterprise and/or local government shall certify to MDA that the expenses were incurred and were in accordance with the Project as approved by MDA. Funds will be released periodically upon receipt of supporting documentation from the Approved business enterprise and/or local government based upon a schedule established by MDA. Internal labor will not be reimbursable.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.12 Register with the Secretary of State. All eligible businesses, required by State law, must be licensed to do business in the State by the Secretary of State's Office.

Source: Miss. Code Ann. § 79-4-15.02; Miss. Code Ann. § 57-1-221.

Rule 22.13 Compliance with Federal and State Laws. A business is required to ensure compliance with the Mississippi Employment Protection Act ("MEPA"), Miss. Code. Ann. § 71-11-3 *et seq.*, and must ensure that the entity registers and participates in the status verification system for all newly hired employees. Under MEPA, the term "employee" means any person that is hired to perform work within the State of Mississippi. As used in MEPA, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. The business must maintain records of such compliance and, upon request of the State of Mississippi and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Any person assigned to perform services must meet the employment eligibility requirements of all federal and state immigration laws. Any breach may subject the business to the following: (a) termination of the Agreement and ineligibility for any assistance, grant or state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to the business by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, the business is also liable for any additional costs incurred by the State.

Compliance with the equal pay provisions of the Federal Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, and the fair pay provisions of the Civil Rights Act of 1964 is required for any entity applying for a job-based incentive authorized by Mississippi Code.

Source: Miss. Code. Ann. § 71-11-3; Miss. Code Ann. § 57-1-371; Miss. Code Ann. § 57-1-373.

Rule 22.14 Audit. Loans and grants made under the Industry Incentive Program are subject to audit by MDA or the Office of the State Auditor. MDA and/or the Office of the State Auditor shall have the right to inspect books, records, plans and other data related to the Project.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.15 Organizational Changes. The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business enterprise may not create new eligibility in any succeeding business entity.

Rule 22.16 Amendment and Waiver. These Rules and Regulations may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of these Rules and Regulations to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State laws.

Source: Miss. Code Ann. § 57-1-221.

Rule 22.17 Certification. In applying to MDA, the business and/or local government certifies that all documents, instruments and information delivered to MDA by the business and/or local government does not contain any untrue statements of a material fact or omit to state a material fact in light of the circumstances under which they were made not misleading. The business and/or local government also certifies that it has disclosed, in writing, to MDA all facts that might reasonably be expected to result in a material adverse effect upon the businesses' and/or local government's ability either to conduct its business or to carry out any agreement with the State. The business and/or local government or its agents may not knowingly and willfully make or use a document or writing containing any false, fictitious, or fraudulent statement or entry in any application, correspondence, or communication with MDA. If there has been an inadequate or inaccurate disclosure of information, MDA's approval or certification may be invalidated or revoked. Any financial benefit as a result may be required to be paid back to the state.

Source: Miss. Code Ann. § 57-1-221, Miss. Code. Ann. §§ 97-7-10, 97-7-11, 97-7-13.

Rule 22.18 Debarment and Suspension Policy. To protect the public trust and interest imposed upon the MDA, if it appears that the business and/or its agent's conduct, as determined by MDA, creates a reasonable belief that a particular act or omission that is covered by this policy has occurred, the MDA shall implement such discretionary actions known as debarment and suspension.

Source: Miss. Code Ann. § 57-113-21; Miss. Code Ann. § 57-73-21.

Program inquiries and applications should be directed to:

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Business Incentives Division
Mississippi Development Authority
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Adopted: September 25, 2024