



OHIO WATER DEVELOPMENT AUTHORITY

PROGRAM RULES

RULE 6121-2-01 DEFINITIONS.

For the purposes of Chapter 6121-2 of the Administrative Code:

(A) "Authority" means the Ohio water development authority, a body corporate and politic organized and existing under the provisions of Chapter 6121. of the Revised Code.

(B) "Governing body of the Authority" means the eight members of the authority as set forth in section 6121.02 of the Revised Code.

(C) "Governmental agency," "governmental agencies," and "person" have the same meanings as set forth in sections 6121.01 and 6123.01 of the Revised Code.

(D) "Program fund" means a fund established under rule 6121-2-02 of the Administrative Code.

(E) "Project" means anything that would qualify as a "project" as defined by either section 6121.01 or 6123.01 of the Revised Code, and includes any research and development activity conducted under division (O) of section 6121.04 or division (L) of section 6123.04 of the Revised Code.

(F) "Project cost" means anything that qualifies as a "cost" as defined by section 6121.01 or 6123.01 of the Revised Code.

(G) "Applicant" means any governmental agency or person, or combination of governmental agencies or persons, who has applied to the authority for a loan or grant to conduct, acquire, or construct, or plan for the conduct, acquisition, or construction of, a project.

(H) "Borrower" means any applicant who has executed a participation agreement for a loan made by the Authority under rule 6121-2-03 of the Administrative Code.

(I) "Participation agreement" means a loan or grant agreement executed by the authority and an applicant under rule 6121-2-03 of the Administrative Code.

(J) "Contract term" means the length of time that a participation agreement is to be in effect once it has been executed by both the authority and the applicant.

(K) "Participation charge" means any payment to the authority that a borrower is required to make under a participation agreement.

(L) "Institution of higher education" means an educational institution in any state that —

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such state to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association.

HISTORY: Eff 09-21-2009 RC 119.032; review dates: 07-07-2009 and 07-07-2014; Promulgated Under: RC 111.15; Statutory Authority: 6121.04, 6123.04; Rule Amplifies: 6121.04, 6123.04; Prior Effective Dates: 04-27-00

RULE 6121-2-02 ESTABLISHMENT OF PROGRAM FUNDS OF THE AUTHORITY.

From time to time, the governing body of the Authority may establish one or more funds for the purpose of making loans or grants, or both, to governmental agencies or persons, or any combination of agencies or persons, for the acquisition or construction, or for planning the acquisition or construction, or for the conduct, of projects pursuant to Chapter 6121 or 6123 of the Revised Code, or both. With respect to each such fund, the governing body shall establish a separate program of the authority by complying with the requirements of this rule. Prior to making any loans or grants from any program fund, the governing body shall approve all of the following:

(A) A set of applicant eligibility criteria to be used as non-binding guidelines for approving loans or grants from the fund;

(B) One or more standard form agreements to be used as non-binding guidelines for negotiating and executing loan or grant participation agreements between the authority and program fund applicants;

(C) For the purpose of loans from the fund, one or more standard formulae or methods to be used as non-binding guidelines in determining interest rates, if any, to be charged to borrowers from the fund under participation agreements executed between the authority and applicants;

(D) Any other non-binding guidelines that the governing body approves for use in implementing the program.

**HISTORY: RC 119.032; review dates: 07-07-2009 and 07-07-2014;
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RULE 6121-2-03 APPROVAL OF LOANS OR GRANTS.

(A) From monies of the authority, or under the control of the authority, that, by the governing body or by law, have been allocated to a program fund established pursuant to rule 6121-2-02 of the Administrative Code, the governing body may approve a loan or grant to an applicant if all of the following apply:

(1) The applicant has supplied to the executive director of the authority, in such form and manner as he prescribes, all information needed to determine each of the following:

(a) That the project to be funded by the loan or grant is one that may be lawfully financed by the authority pursuant to Chapter 6121 or 6123 of the Revised Code;

(b) That the applicant may lawfully acquire or construct, or plan for the acquisition or construction of, or conduct, the project;

(c) That the applicant has the ability to comply with all the terms and conditions of the participation agreement executed between the authority and the applicant;

(2) The applicant has signed and submitted to the executive director of the authority a participation agreement containing terms and conditions satisfactory to the governing body of the authority.

(B) Upon approval of the loan or grant by the governing body, the executive director shall sign and otherwise complete the execution of the participation agreement on behalf of the authority.

**HISTORY: RC 119.032; review dates: 07-07-2009 and 07-07-2014;
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RULE 6121-2-04 PARTICIPATION AGREEMENTS.

In approving standard form loan participation agreements pursuant to rule 6121-2-02 of the Administrative Code, the governing body of the authority shall determine the manner in which each form agreement addresses all of the following:

(A) The contract term, which, generally, will be no less than five years, nor more than thirty years, for a construction project and no more than five years for a planning project;

(B) The project costs to be paid by the authority and the method by which they will be paid;

(C) The interest rate, if any, to be applied to the agreement, which, generally, will be based upon the standard method, formula, or formulae for the program approved by the governing body pursuant to rule 6121-2-02 of the Administrative Code;

(D) The participation charges, if any, to be paid by the borrower, including the commencement date and regular interval dates upon which such payments will be due;

(E) The rights of the authority to inspect records, accounts, and other data of the borrower pertaining to the project and to inspect the facilities acquired or constructed, or in the process of being acquired or constructed, pursuant to the loan agreement;

(F) The rights, remedies, and obligations of the authority and the borrower in case of default, breach, or termination of the agreement before the end of the contract term;

(G) Any other types of terms or conditions that the governing body considers appropriate for inclusion in standard form agreements for the program.

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RULE 6121-2-05 MAINTENANCE OF TAX EXEMPT STATUS OF BONDS AND NOTES.

The governing body of the authority shall not approve a loan if the loan, in the opinion of the authority's counsel, would jeopardize the tax-exempt status of bonds or notes issued by the authority.

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RULE 6121-2-11 RESEARCH AND DEVELOPMENT GRANTS.

(A) In awarding grants for purposes of research and development, the governing body of the authority shall give priority to:

(1) Projects that would fulfill a general need in Ohio for research or development concerning "waste water facilities" or "water management facilities" as defined in section 6121.01 of the Revised Code, "solid waste facilities" as defined in section 6123.01 of the Revised Code, or "energy resource development facilities" as defined in section 1551.01 of the Revised Code;

(2) Projects that have statewide environmental, natural resource, or development application;

(3) Applicants who would furnish a portion of the cost of the project either by direct funding or by allocation of staff, equipment, or material resources;

(4) Applicants that are governmental agencies, other than departments, divisions, or other similar units of state government or the federal government.

(5) Institutions of higher learning.

(B) The governing body of the authority shall not approve a research and development grant unless the applicant agrees to submit to the authority and the overseeing state agency a final report describing how the benefits derived from the project fulfill one or more general needs as specified in paragraph (A)(1) of this rule.

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