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TITLE 16. TRANSPORTATION
CHAPTER 56. AIRPORT GRANT AND LOAN PROGRAM

Authority: N.J.S.A. 6:1-29, 6:1-44, 6:1-89 et seq., 27:1A-5, 27:1A-6, and 27:1B-1 et seq.

Expires February 27, 2021.

SUBCHAPTER 1. PURPOSE AND SCOPE

16:56-1.1 Purpose

This chapter governs grants and loans to eligible applicants for projects that promote aviation safety, education, and aeronautics, and preserve and rehabilitate the State general aviation airport system.

16:56-1.2 Scope

Subject to appropriations and to the extent allowable, grants and loans may be available to State general aviation airports and facilities, enterprises located at the airports, counties, municipalities, other political subdivisions of the State, persons, or entities that are eligible for aid pursuant to N.J.S.A. 6:1-89 et seq., and 27:1B-1 et seq.

SUBCHAPTER 2. DEFINITIONS

16:56-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Airport" means any facility, or area of land, water, or both, either publicly or privately owned, which is licensed for the landing or takeoff of aircraft, and open to the public for aeronautical operations, that does not have a restrictive covenant on operational use by the general public for reasons other than safety, and is not an international airport.

"Airport Safety Fund" means a fund established pursuant to the Airport Safety Act of 1983, N.J.S.A. 6:1-89 et seq., and amended by the Airport Safety, Security and Improvement Act, P.L. 2010, c. 38.

"Aviation enterprise" means any business or enterprise that is principally located within a New Jersey unrestricted public use general aviation airport where the Commissioner has determined such business or enterprise has a direct economic or operational benefit to the airport.

"Bureau" means the Bureau of Multimodal Grants and Programs within the New Jersey Department of Transportation.

"Commissioner" means the Commissioner of the New Jersey Department of Transportation or such person(s) as the Commissioner may designate, when legally permissible.

"Critical Path Method" means a scheduling method used in project management that shows when activities must be carried out so that the project can be completed in the shortest time and at the lowest cost.

"Department" means the New Jersey Department of Transportation.

"International airport" means an airport whose official name contains the words "international airport," is served by scheduled or charter international airline service, and U.S. Customs Service and Border Patrol service is available for arriving flights.

"PS&E" means a package of complete contract documents for a project consisting of final plans, specifications, and estimates that are each signed by a professional engineer licensed in the State of New Jersey.

"SAGE" means the State of New Jersey's System for Administering Grants Electronically.

"State" means the State of New Jersey or a department of the State of New Jersey as the context may indicate or require.

"Total project cost" means the sum of, including, but not limited to, the costs associated with design, utilities, right-of-way acquisition, construction, construction engineering, construction inspection, materials testing, and maintenance and protection of traffic.

"Useful life" means the expected life of the improvement as identified by the grant or loan agreement for the project commencing with final acceptance of the improvement by the Department. The useful life determines the residual value of the grant or loan agreement in the event of the closure of the airport.

16:56-2.2 (Reserved)

16:56-2.3 (Reserved)

16:56-2.4 (Reserved)

16:56-2.5 (Reserved)

16:56-2.6 (Reserved)

16:56-2.7 (Reserved)

SUBCHAPTER 3. GRANTS AND LOANS

16:56-3.1 Airport improvement grants

(a) An airport or other entity may apply for an improvement grant for airport improvement projects, consistent with the purposes and scope of this chapter.

(b) The distribution and funding of improvement grants will be prioritized and rated according to the general project categories of this subsection, in the following order:

1. Safety improvement and State- or Federally mandated security project;
2. Rehabilitation of existing systems to allow the continuance of a state of good repair;
3. Expansion;
4. Security project not State- or Federally mandated; and
5. Other projects which, at the discretion of the Bureau, should be considered.

(c) Financial assistance for airport improvement grants shall not exceed 90 percent of the total project cost and the recipient's share shall not be less than 10 percent of the total project cost.

(d) State-mandated and emergent projects can be funded at up to 100 percent of the total project cost.

16:56-3.2 Eligible projects

(a) Projects eligible for improvement grants under this chapter may include, but are not limited to, the following:

1. Runway, taxiway and aircraft parking apron construction, reconstruction, overlay, rehabilitation, preventive maintenance, lighting and marking;
2. Rehabilitation, improvement, lighting, and marking of turf and natural surface runways, taxiways, and aircraft parking aprons;
3. Airport beacons, approach lighting, and electronic and visual navigation aids;
4. Airport security equipment and security projects;
5. Permanently installed above ground aircraft fueling equipment;
6. Airport and runway obstruction removal, mitigation, and marking;
7. Airport equipment dedicated to aircraft crash, fire, and rescue purposes; and
8. Funding in response to an emergent project as determined by the Commissioner for a condition at or near an airport that substantially endangers the health, safety, or welfare of persons or property and must be addressed expeditiously.

(b) The State may require the acquisition and/or installation of certain safety or security devices or equipment at public use airports. When so required, these activities will be eligible for an airport improvement grant.

1. At the discretion of the Department, such projects may be managed by either the State or the individual airport sponsor. If the project is funded by an individual grant, obligations of the sponsor will be included within the grant agreement. Examples of such projects include, but are not limited to: security cameras and related support equipment; other security devices and measures required by N.J.A.C. 16:54, Licensing of Aeronautical Facilities; aviation communications equipment; and weather observation and reporting systems.

16:56-3.3 Matching grants

(a) An airport may apply for a grant to match funding for airport improvement projects financed by Federal sources of funding for airport improvement projects consistent with the purposes of this chapter.

(b) Matching grants shall be up to half of the airport's total project cost for the required local match.

(c) In an emergency, a matching grant may be up to 100 percent of the airport's required local match.

(d) The Department may enter into individual matching grant agreements for individual projects. The Department may also enter into multi-year matching grant agreements of up to seven years for multiple eligible projects requiring matching funds, when receiving Federal assistance during the term of the agreement.

16:56-3.4 Airport acquisition grants

(a) Publicly owned airports, counties, municipalities, and political subdivisions of the State may apply for an airport acquisition grant for the acquisition of airports or lands, rights in land and easements, including aviation easements necessary for clear zones or clear areas.

(b) The airport to be acquired or for which the proposed acquisition will be made shall be owned, controlled, or operated, or to be owned, controlled, or operated by a municipality, county, or other political subdivision of the State.

(c) The acquired property or interest in property shall not be sold or used for any non-aviation purpose without the prior written approval of the Commissioner, and may be subject to contractual limitations or conditions established within the acquisition grant agreement.

(d) A grant for an airport acquisition shall not exceed 95 percent of the total acquisition cost, and the recipient's share shall not be less than five percent of the total acquisition cost.

16:56-3.5 Aviation studies grants

(a) An airport, agency of the State, county, municipality, or any political subdivision of the State, may apply for a grant to conduct a study associated with a safety project, including, but not limited to, feasibility, system plan, master plan, airport layout plan, facility siting, engineering, environmental, or aviation economic study.

(b) A grant for an aviation study shall not exceed 95 percent of the total study cost, and the recipient's share shall not be less than five percent of the total study cost.

16:56-3.6 Aviation education, safety, and aeronautics promotion grants

(a) Grants may be available for a program or activity that promotes aviation safety, aviation education, or aeronautics. An applicant must demonstrate the ability and capacity to effectively conduct the proposed program.

(b) Programs eligible for grants under this section include, but are not limited to, the following:

1. Public and private school programs;
2. Non-profit pilot education flight safety programs; and
3. Public information and promotional programs which further the public understanding of and appreciation for aviation and aviation benefits.

(c) In no fiscal year shall the amount of moneys expended for aviation education, safety, and promotion programs exceed 10 percent of the total amount of moneys appropriated in that fiscal year to the Airport Safety Fund.

16:56-3.7 Aviation loans

(a) An airport or an aviation enterprise may apply for a loan to be used for such specific purposes and on such terms and conditions as determined by the Commissioner, consistent with the purposes of N.J.S.A. 6:1-1 et seq.

(b) Loan proceeds may be used for revenue or nonrevenue generating capital construction, capital development, or equipment acquisition purposes.

(c) Loans shall not fund an expansion, the preparation for an expansion or completion of an expansion of the physical capabilities of the airport, including, but not limited to, expansion of the runways, to support a greater number of flights or larger aircraft than that which the airport was able to handle safely at the time of the loan application.

(d) Loans may fund the restoration of the physical capabilities of an airport to a state of full repair and maintenance.

(e) Limitations on loans are as follows:

1. A recipient cannot receive more than one aviation loan in a State fiscal year;
2. A loan shall have a four percent annual interest rate, and not exceed \$ 200,000. The maximum loan period is 10 years;
3. A loan shall be repaid in a time proportional to the useful life of the project improvement, as determined by the Commissioner; and
4. A loan must be fully secured by property equity or other assets satisfactory to the Commissioner.

(f) Recipients shall repay loans as provided in the loan agreement.

SUBCHAPTER 4. APPLICATION AND SELECTION

16:56-4.1 General provisions

(a) The Bureau will solicit applications for grants and loans under this chapter. The availability of funds will be announced in a public notice published in the New Jersey Register, by notification to airports and other entities, and on the Department's website at <http://www.state.nj.us/transportation/airwater/multimodal/aviation.shtm>.

(b) An applicant shall apply via the SAGE Program found at: <http://www.state.nj.us/transportation/airwater/multimodal>. The application shall include, but is not limited to, the following:

1. Applicant information, including:
 - i. Name, address, telephone number(s), email address(es), and website(s) (if available);
 - ii. Vendor ID number and address; and
 - iii. A legal deed or instrument verifying ownership, including a narrative legal description of the metes and bounds of the airport property certified as accurate by a New Jersey registered land surveyor or professional engineer;
2. Proposed project information, including:
 - i. A detailed scope of work;
 - ii. The project cost, which includes:
 - (1) Total project cost;
 - iii. The anticipated project delivery schedule; and
 - iv. A description of project need and its relation to the long-term development of the airport and air safety;
3. Facility information, including:
 - i. The name, location, and description;

- ii. The numbers of aircraft based at the airport and annual operations;
- iii. A list of airport fixed base operators (FBO); and
- iv. The names and addresses of persons having at least a 10 percent interest (if the applicant is a corporation or a partnership);

4. The type of grant or loan requested;

5. Documentation from the appropriate governing body regarding the proposed project's compliance with local zoning codes or ordinances. If the proposed project fails to meet a zoning code or ordinance, the applicant shall describe and explain the reason for failing to meet the code or ordinance and the reasons that the project may not come into compliance. The applicant shall include copies of the relevant zoning laws and ordinances, and the zoning approval application; and

6. If applicable, financial documents including, but not limited to, balance sheets, income statements, and cash flow reports for the two years preceding the application submittal.

(c) Applicants without access to the internet may contact the Bureau of Multimodal Grants and Programs at the following:

New Jersey Department of Transportation
Bureau of Multimodal Grants and Programs
PO Box 600
Trenton, New Jersey 08625-0600
(609) 530-2847

(d) Applicants may submit up to two applications per State fiscal year for grants other than matching grants.

(e) The deadline for submission of an application for a grant, other than a matching grant or loan, is by the close of business on the last business day of July.

(f) Applications for matching grants or loans will be accepted throughout the year. There is no limit to the number of matching grant or loan applications that can be submitted.

16:56-4.2 Application evaluation criteria and standards

(a) The Bureau of Multimodal Grants and Programs will evaluate applications for grants and loans under this chapter, and give weight and consideration to, the following criteria:

- 1. General project category;
- 2. The scope and cost of the improvement required;
- 3. Availability of local funds for airport development;
- 4. Anticipated Federal funds;
- 5. The relative value of that improvement to the other needs of the particular airport;
- 6. The present and anticipated public service levels in regard to operations, based aircraft, passenger service, freight service, and Statewide distribution of services;
- 7. The project's contribution to local and State economic development;
- 8. The impact on the area surrounding the airport;
- 9. The extent to which the improvement will contribute to the welfare of the citizens of the State and the local area;

10. The airport's relative value to the State general aviation airport system as a whole;
11. The improvement's contribution to the preservation and rehabilitation of the State general aviation airport system;
12. The project's impact on the airport's compliance with standards;
13. The readiness of the project to begin construction when the grant or loan is awarded, which includes the timing of anticipated receipt of permits and local government resolutions in support or opposition of the project;
14. The project's inclusion in the airport's master plan/airport layout plan;
15. The applicant's experience in effectively managing prior State and Federal funds;
16. The extent to which the project will retain or increase air service at the airport;
17. The applicant's successful implementation of a value engineering proposal on past grant project, if applicable;
18. The extent to which the project improves the economic viability of the airport, including providing basic facilities necessary to accommodate and attract activity; and
19. Whether the applicant is financially or otherwise able to carry out the assurances and obligations contained in the project application and grant agreement.

(b) In addition to the criteria in (a) above, the Bureau will consider the application in light of the availability of funds, priorities for development of the air transportation infrastructure, the purposes of this chapter, the financial resources of the applicant, and other significant factors, including environmental or economic factors, existing at the time of application.

(c) The Bureau may determine the amount of financial assistance to be allocated among the programs identified in this chapter, so as to insure the availability of funds for other programs identified in this chapter, or to meet future or anticipated funding requirements.

16:56-4.3 Selection process

(a) Each application will be reviewed for completeness. If additional information is necessary to make a determination of eligibility, the applicant will be notified in writing or through SAGE. The application will not be considered complete until the applicant submits the additional information.

(b) After the application is deemed complete, the Bureau will consider the proposed project based upon the criteria and standards found in this chapter.

16:56-4.4 Offer

(a) The Department will send a notification of award and a written offer for a grant or loan to the applicant, as directed by the Commissioner.

(b) An applicant who receives a grant or loan has 14 days from the date of receipt to accept the offer. If a meeting of a governing council or regulatory agency is required prior to the acceptance of an offer, the applicant has seven calendar days after the meeting to accept an offer. Acceptance may be made by mail or fax to the following:

Bureau of Multimodal Grants and Programs
New Jersey Department of Transportation
PO Box 600
Trenton, New Jersey 08625-0600

Fax: (609) 530-5270

(c) Failure to respond within the designated timeframes will be considered a rejection of the offer.

(d) Acceptance of an offer is nonbinding on both the Department and the applicant until an agreement between the Department and the applicant is executed by the Department. The Department may withdraw an offer of financial assistance at any time prior to the signing of the agreement.

(e) Upon the receipt of an acceptance of an offer, the Bureau may require the submission of additional information including, but not limited to:

1. An Application for New Aeronautical Facility License or Alteration, as required under N.J.A.C. 16:54; and

2. A completed copy of Notice of Landing Area Proposal or Notice of Proposed Construction or Alteration (FAA Forms 7480-1 or 7460-1 as it may be amended or superseded).

SUBCHAPTER 5. AGREEMENTS

16:56-5.1 Agreement

(a) Upon the review and approval of a written acceptance, the Bureau will prepare an agreement and transmit the agreement to the grant or loan recipient. The agreement may contain such terms and conditions as deemed necessary to protect the public interest.

(b) The recipient shall sign the agreement document, have it witnessed, and then return it to the Bureau for full execution, along with any or all of the following as required by the Bureau:

1. A detailed package containing the Plans, Specifications and Estimate (PS&E) prepared, signed, and sealed by a professional engineer licensed in the State of New Jersey;

2. A detailed Critical Path Method project delivery schedule;

3. A Quality Assurance Certification signed by a professional engineer licensed in the State of New Jersey, stating that the project was designed in accordance with all applicable Federal, State, local, and industry design standards and criteria and that the certified estimate is within 10 percent of the original estimate used for the selection of the project; and

4. Any additional items required by the Bureau that are necessary for the execution of the agreement.

(c) The Department shall issue a written Notice to Proceed to the grant or loan recipient once the grant or loan agreement is executed, the recipient's Critical Path Method project delivery schedule is received and the project's PS&E package is approved by the Department.

(d) Reimbursable costs can be incurred only on or after the date cited in the written Notice to Proceed issued by the Department to the grant or loan recipient.

(e) A grant or loan recipient shall be responsible for the delivery of the project pursuant to the terms of the agreement within the approved budget and on schedule.

(f) If project or program costs exceed the amount of the State's share of a grant or loan, the grant or loan recipient will be responsible for any additional costs, unless a modification to the agreement is approved by the Department, thereby increasing the amount of the grant or loan. Any costs incurred by the recipient that exceed the amount of the State's share of a grant or loan prior to modification of the agreement shall not be eligible for reimbursement.

16:56-5.2 Certification

(a) A recipient of a grant or loan shall certify that:

1. The airport will be owned or effectively controlled, operated, repaired and maintained adequately during an improvement's useful life, for the benefit of the public;
2. In connection with the operation of the airport, during an improvement's useful life, the public will not be deprived of its rightful, fair, equal and uniform use of the airport; and
3. The airport will adhere to State and Federal laws and regulations.

16:56-5.3 Specification standards, methods, techniques, and designs

The Department encourages the use of value engineering methods to control project costs including, but not limited to, the use of non-standard specifications and the use of low cost materials or techniques. The successful implementation of a value engineering proposal may be taken into consideration when future grant applications submitted by the applicant are evaluated.

16:56-5.4 (Reserved)

16:56-5.5 (Reserved)

16:56-5.6 (Reserved)

SUBCHAPTER 6. INSPECTIONS AND PAYMENTS

16:56-6.1 Inspections of records and sites

(a) The Commissioner may inspect, without notice, the sites, proposed sites, records, construction, or materials related to a project or program.

(b) An inspection may include, but is not limited to, the reproduction and examination of records; the taking of samples applicable to site evaluation or project or program quantity control; the validation of metes and bounds; the recipient's use of a site or project or program; or the assessment of any factor relevant to a project or program, application, or contracts and terms related to the project or program.

(c) Any denial of access to records, failure to produce records, or obstruction with an inspection by a recipient may result in the withdrawal of financial assistance, disqualification from current or future consideration for State aid, or the declaration of a recipient to be in default of the terms of an agreement and may result in further legal actions by the State as applicable under the laws of New Jersey.

16:56-6.2 Grant payment procedures

(a) Disbursements are made on a reimbursement basis. Recipients are required to first directly pay for the improvements requested and then seek reimbursement of the allowable costs via the submission of a State Payment Voucher or Vouchers.

(b) Requests for payment shall include, but not be limited to, copies of vendor invoices, bills for equipment rentals, and certified payrolls. Invoices shall be certified as accurate and proper by the recipient, as required by the Department.

(c) Prior to any disbursement of funds, the State may conduct site inspections, tests, or review and audit records or accounts to determine that the recipient meets the requisite conditions for the disbursement of funds.

16:56-6.3 Project close-out

(a) The requirements for the close-out of a grant agreement include, but are not limited to:

1. The successful completion of a final inspection;
2. The successful resolution of any issues between the Department and the recipient;
3. The submission of a final payment voucher to the Department;
4. The submission of a document containing:

i. A release clause signed by the recipient releasing any and all claims against the New Jersey Department of Transportation and the State of New Jersey, their officers, and employees, arising out of any and all obligations assumed and work performed under the State grant agreement, including claims for extra or additional work;

ii. Certification that the recipient has paid their share of the cost of the project; and

iii. Certification that the recipient has fully paid any and all contractors, subcontractors, vendors, and/or recipient's employees performing work on the project; and

5. Submission, as requested by the Department, of any of the following:

i. Certification of a professional engineer licensed in the State of New Jersey that the project has been completed in accordance with the scope of work provided by the recipient;

ii. Certification of a professional engineer licensed in the State of New Jersey that the project has been completed in accordance with the plans, specifications, and estimate provided by the recipient; or

iii. Certification issued by the grant recipient that the project has been completed in accordance with applicable industry standards.

SUBCHAPTER 7. AUDIT, RECORDKEEPING, AND RECORD RETENTION

16:56-7.1 Audit requirements

(a) A recipient of a grant or loan under this chapter shall comply with the State of New Jersey single audit policy for recipients of Federal grants, State grants, and State aid defined by the Department of the Treasury, Office of Management and Budget and the Single Audit Act of 1984 (Federal OMB Circular A-133), incorporated herein by reference, as amended and supplemented. Copies of these circulars can be obtained from the New Jersey Department of the Treasury, Office of Management and Budget at www.state.nj.us/infobank/circular/circindex.htm and www.whitehouse.gov/OMB or by mail from:

New Jersey Department of Treasury
Office of Management & Budget
PO Box 221
Trenton, NJ 08625-0221

(b) The Department shall direct that an audit of the recipient be performed by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with State audit policy.

(c) Audit costs incurred by recipients to comply with this subchapter are not reimbursable.

16:56-7.2 Recordkeeping requirements

(a) A recipient shall keep records as the Department may prescribe, including records that disclose the amount and the disposition of the grant or loan, the total cost of the project or program, and the amount and nature of that portion of the cost of the project or program paid from sources other than the grant or loan, and records as will facilitate an effective audit.

(b) The Department, or any authorized representatives, shall have access to any books, documents, papers, and records that are pertinent to the project or program, for the purpose of audit and examination.

(c) A recipient shall establish and maintain an accounting record for each individual project or program that identifies the project or program costs.

(d) A recipient shall maintain effective control over and accountability for all project or program funds, property, and other assets allocated for project or program use. Recipients shall adequately safeguard all project or program assets and shall assure that they are used solely for authorized purposes.

(e) The recipient shall include in each contract with a project or program subcontractor or provider of services to the project or program, a clause that allows the Department access to the subcontractor's or provider's records for purposes of accounting and audit.

16:56-7.3 Retention of records

(a) As stated in the agreement, a recipient shall obtain and retain all project-related records for a period of the useful life of the project plus one year, after the submittal of the recipient's final invoice. Such records include, but are not limited to, documentary evidence such as invoices, cost estimates, appraisal reports, and negotiation documents relating to each item of project or program cost, vendor's invoices, applicable purchase orders, receiving reports, inventory records, method of pricing, returns, production cost reports, weight tickets, physical inventories, production cost accounts, final inspection report showing acceptance of the airport development performed under the project or program, and a record of disposition or correction of all unsatisfactory work, if any.

(b) If audit findings have not been resolved, records shall be retained until the findings have been resolved.

SUBCHAPTER 8. LIABILITY AND PENALTIES

16:56-8.1 Liability

Any failure by a recipient to meet the conditions or performance criteria or obligations under an agreement may result in the withdrawal of the grant or loan, disqualification from current or future consideration for financial assistance, or the declaration that a recipient is in default of the terms of an agreement.

16:56-8.2 Penalties

(a) If a recipient fails to comply with the terms of the agreement before the end of the useful life of an improvement or the completion of a program, the State shall be reimbursed for the unused portion of the useful life and, if not fully reimbursed, the State will have a first lien to the extent of the unreimbursed portion of the improvement or the program.

(b) Any person who knowingly or willfully makes a misrepresentation or false statement in an application or violates the provisions of this chapter may be subject to the fines and penalties as provided by Title 6 of the Revised Statutes.