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 assists 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 maybe 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 guaranties 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 that 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 (the 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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005)

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 (Rev. 2005) (as amended in HB 1148).

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

Source: Miss. Code Ann. § 69-2-13 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 fee will be a one-time charge and may be paid by the agribusiness, deducted from the ABE Loan proceeds, or financed as a part of the Lender's 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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 weighted 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 weighted 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

(i) producer's copy of USDA Form 9061-2; and

(ii) loading ticket, at time of catching, containing truck number, trailer number, number of birds per coop, and number of full coops; and

(iii) copy of weight tickets for live birds; and

(iv) copy of medication charges either at delivery or with settlement payments; and

(v) copy of sample computation of payment formula, which shall use producer's actual figures.

This subsection C does not apply to loans for pullet and breeder houses.

D. Processor must use all available means to insure 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 effected 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 effect 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 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 (Rev. 2005) (as amended in HB 1148).

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 $200,000, whichever is less. Upgrades for the retrofitting of poultry houses shall not exceed thirty percent (30%) of the total cost of the project or $200,000, 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 $200,000, 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 $200,000 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 $400,000.

Source: Miss. Code Ann. § 69-2-13 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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, subparticipated, subdivided, encumbered or otherwise transferred.

Source: Miss. Code Ann. § 69-2-13 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 refered 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 esources 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 c 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

G. the company's needs.

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

Rule10.8 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)

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
(vii). 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.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008)

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)

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 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)

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)

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)

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)

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, whichever threshold occurs first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008)

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.*

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)

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 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)

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)

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)

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)

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, whichever occurs first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008)

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)

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 ("MESC") most recently published data and/or;

(ii). Counties that apply <u>before</u> 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 <u>after</u> 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
H. 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.
I. Provide a map showing where in the GAP County or supervisor's district they are located or locating.
J. 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: 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 $$750,000. 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 three percent (3%) 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)

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 $750,000. 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 three percent (3%) 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)

Part 1 Chapter 16: Motion Picture Production Tax Incentive Program

Rule 16.1 Purpose. There is a sales and use tax exemption available for a motion picture production company on purchases used in the production of a nationally distributed feature-length film, video, television series or commercial made in Mississippi. This does not include news or athletic events.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.2 Eligibility. This Motion Picture Incentive is a sales and use tax exemption that was created as an incentive for the motion picture industry to locate its production business in Mississippi. The exemption is for the purchase of production items used in the production of a motion picture project that has been certified by the Mississippi Development Authority (MDA). To be eligible for the exemption, the item(s) must be sold directly to, billed directly to, and paid for directly by the business receiving the exemption.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.3 Definitions.

A. Motion Picture: A nationally distributed feature-length film, video, television series or commercial. It does not include any sports or news coverage or film, video, television series or commercial containing any material or performance that is defined as obscene in Miss. Code Ann. Section 97-29-103.

B. Motion Picture Production Company: Any company engaged in the business of producing nationally distributed motion pictures, videos, television or commercials. The company producing the motion picture cannot have defaulted on any state loan or have declared bankruptcy where a state obligation had been discharged because of the bankruptcy.

C. Project: A production certified by MDA. To qualify, a project must be a nationally distributed feature length film, video, television series or commercial that is made (in whole or in part) in Mississippi for theatrical or television viewing.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.4 Items Used. The exemption covers items used on location such as:

A. film;
B. videotape;
C. component building materials used in the construction of a set;
D. makeup;
E. fabric used as or in the making of costumers;
F. clothing, including, shoes, accessories and jewelry used as wardrobes;
G. materials used as set dressing;
H. materials used as props on a set or by an actor;
I. materials used in the creation of special effects;
J. and expendable items purchased for limited use by grip, electric and camera department such as tape, fasteners and compressed air.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.5 Machinery Used. There is a reduced rate of one and one-half percent (1 ½%) on the purchase of machinery and equipment used in the production of a motion picture. Such equipment includes:

A. editing equipment;
B. audio equipment;
C. lighting equipment;
D. projection equipment;
E. camera equipment;
F. sound equipment;
G. cables and computer equipment for use in the editing process, creation of special effects and for use in the graphic and animation process.

Manufacturing machinery used in the production of motion pictures is not required to be limited to plant site use only.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.6 Application. The motion picture company must apply to MDA to have their project certified by submitting a letter to the Mississippi Film Office that includes the following:

A. Company name, address, phone and fax numbers;
B. Company's local production office address, phone and fax numbers;
C. Names of the Line Producer, Unit Production Manager and Production Accountant;
D. Title of the production;
E. Type of project (feature-length film, video, television series or commercial);
F. Proposed dates of production, including start date of pre-production and completion date of principal photography;
G. Copy of the script or synopsis;
H. Intended plan for national distribution.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.7 Notification. MDA will notify the motion picture company of their acceptance by providing the following:

A. Approval letter and MDA Board meeting minutes
B. A certification number;
C. Names and numbers of contacts;
D. Required forms to be completed;
E. General guidelines for participation in the program.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.8 Certification. To be certified as eligible for the exemption from MSTC, the business must submit the following:

A. A completed Application for Certification for Economic Incentives, Form 70-801;
B. A completed Registration Application, Form 70-001, for a use tax account (if one has not been assigned); and
C. A completed Application for Direct Pay Permit for each project.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.9 Direct Pay Permit. If the exemption is granted, then the Direct Pay Permit number should be furnished to all vendors so that the retail sales or use tax will not be charged. Any tax due on the purchase of items taxable at the reduced one-half percent (1 ½%) rate should be remitted directly to the Tax Commission using the use tax return. An expiration date will be given for the Direct Pay Permit issued for the specific project. After this date, the Direct Pay Permit would no longer be effective and the tax would be remitted to the vendor in the normal course of business. If a second project is planned, a new Direct Pay Permit will be required. Exemptions will not be given on any expenditure that is made prior to the certification date. Any tax paid to the vendor before the direct pay permit is issued and any tax paid in error after issuance of the direct pay permit must be refunded from the vendor.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Title 6: Economic Development

Part 2: Minority and Small Business

Part 2 Chapter 1: Minority Surety Bond Guarantee Program

Rule 1.1 Overview. Mississippi Code Section 69-2-13(5) directs the Mississippi Development Authority (MDA) "to develop a program which will assist minority business enterprises by guaranteeing bid, performance, and payment bonds which such minority businesses are required to obtain in order to contract with federal and state agencies or political subdivisions of the state." A Loss Reserve Fund of $2,000,000 was appropriated with authority for an additional $1,000,000 to guaranty private surety bonds guaranteed under the Minority Surety Bond Guaranty Program.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.2 Purpose. The Minority Surety Bond Guaranty Program strives to increase minority participation in construction and building trades contracts with federal, state, and local units of government, and their subsidiaries. Often minority firms are unable to compete for this business because they cannot obtain the bid, performance, and payment bonds required for government contracts. The Minority Surety Bond Guaranty Program assists these firms through surety bond guaranties and technical assistance to internal management. The goal of the Minority Surety Bond Guaranty Program is to help minority and women contractors establish a bond line with a surety company with a partial guarantee from the state. This will provide to the contractors an opportunity to form a relationship with a surety company thereby enabling them to obtain bond lines without a state guarantee. With successful completion of contracts guaranteed under the program, coupled with management and technical assistance directed by the program administrator and others, it is projected that minority contractors will grow in experience, management skills and the financial stability sufficient to obtain surety bonding on their own.*

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.3 Contractors. A contractor/applicant must meet the following criteria:

A. Be in the construction or building trades business.
B. Be a certified business enterprise, Minority-Owned Business Enterprise (MBE) or Woman-Owned Business Enterprise (WBE) through the Minority and Small Business Development Division (MSBDD) of MDA.
C. Have been in business at least one year prior to application.
D. Have its principal place of business located in the state of Mississippi.
E. Meet experience and financial standards appropriate to the contract.
F. Agree to subcontract no more than seventy-five (75%) of a qualified contract.
G. Show reasonable evidence of inability to secure bonding in the general market.
H. At the discretion of the Surety Bonding Committee, agree to attend instructional courses designed by the Mississippi Development Authority's Minority & Small Business Development Division and the selected surety company to meet general requirements

leading to independence in securing bonding and contractor licensing. The committee may waive all or selected courses based on an assessment of the level of competency of the participant The classes will be conducted over a 13-week period (one 3 hour class per week). The courses will be conducted by professionals in the related fields of expertise and include the following:

Week 1: Business Planning and Organization
Week 2: Risk Management
Week 3: Estimating
Week 4: Dispute Management
Week 5: Scheduling
Week 6: Occupational Safety
Week 7: Finance and Business Management
Week 8: Conflict Resolution
Week 9: Contract Management
Week 10: Surety Bonding
Week 11: Equipment Management
Week 12: Written Communication
Week 13: General Contractors State Licensing Preparation
Optional: Contractor Exam Review

The courses will be available statewide through utilizing the resources of the Mississippi Community Colleges and Universities and other resource partners. The courses will be provided at a nominal cost to the participant. For course completion, no more than three absences will be permitted, not including the optional session (Exam Review).

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.4 Types of Bonds.

A. Bid Bond: Guarantees that the bidder on a contract will enter into the contract and furnish the required payment and performance bond.

B. Payment and Performance Bond: Guarantees payment from the contractor to the person who furnishes labor, material, equipment and/or supplies for use in the performance of the contract. The bond also guarantees that the contractor will perform the contract in accordance with its terms.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.5 Qualifying Governmental Agencies. Examples of governmental agencies whose construction contracts qualify:

A. Federal Agencies:
   (i). U.S Post Office
   (ii). U. S. Army Corp of Engineers
   (iii). Department of Housing and Urban Development
   (iv). U.S. Military

B. State Agencies:

(i). Universities and Community Colleges
(ii). Department of Transportation
(iii). Bureau of Buildings, Grounds, and Real Property Management

C. Local Governments and Subsidiaries:
(i). Cities, towns and counties
(ii). Public housing authorities
(iii). Public Schools
(iv). Public Facilities
(v). Roads and Bridges
(vi). Other Related Public Infrastructure

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.6 Guaranty Amounts. For a Mississippi Development Authority approved firm, the Minority Surety Bond Guaranty Program offers bond guaranties up to $175,000 for a company new to the program. After reevaluation, the maximum guaranty amount increases to $250,000 in the company's second year of participation providing that there has been no default and the company remains eligible. The Mississippi Development Authority may guarantee up to ninety (90%) of specified bond amounts up to the applicable maximum.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.7 Costs. There is no charge for bid bonds through the Mississippi Development Authority or the surety company. For payment and performance bonds, there is an administrative charge of .6% per thousand dollars to Mississippi Development Authority.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.8 Default. The definition of surety losses is the responsibility of the Surety and the Mississippi Development Authority as detailed in applicable Bond Guaranty Agreement documents.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.9 Application. To apply for bonding assistance through the Minority Surety Bond Guaranty Program, a business will first contact the Minority & Small Business Development Division or one of the Mississippi Contract Procurement Center Regional Offices for applications and/or technical assistance in submitting certification and bonding applications. Bonding applications are then forwarded to participating Underwriters and Sureties. The application packages will include the following and must be submitted for each bonding request:

A. Bond Application
B. Project Data Sheet
C. Complete Submission of Document Check List Items

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Part 2 Chapter 2: Minority Enterprise Division Appeals Procedure

Rule 2.1 Scope. This procedure is the exclusive method for seeking administrative review of adverse action taken by Minority Business Enterprise Division, a division of the Mississippi Development Authority.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.2 Appealable Actions. An applicant/participant may appeal the following adverse actions taken by MBED - a denial of program admission and/or a denial of renewal of program admission. However, an adverse action is only appealable if MBED's decision is based solely on a negative finding of social disadvantage, economic disadvantage, ownership, control or any combination of these four criteria. An adverse action that is based, even in part, on failure to meet any other eligibility criterion is not appealable and is the final decision of the agency.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.3 Notice. The applicant/participant shall be advised in writing of the grounds on which MBED based its action. The notice will be sent by certified mail return receipt requested. The notice of action shall also include a statement indicating that the applicant/participant has the right to request reconsideration or if applicable, to appeal the action under the provisions of Section 2 above.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.4 Request. An applicant/participant may request reconsideration by MBED of any adverse action regardless of whether the adverse action is appealable under Section 2 above. Such request must be in writing to the Director of Minority Business Enterprise Division, Mississippi Development Authority, P.O. Box 849, Jackson, Mississippi 39205-0849. The Director of MBED must receive the request for reconsideration within twenty (20) calendar days from the date the Notice of Adverse Action was mailed. The request must specify the matter(s) to be reconsidered and include any additional information the applicant/participant wishes to be considered.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.5 Review. Upon receipt of a request for reconsideration, MBED will review the request and any information provided, conduct further inquiry if necessary, including but not limited to an in-person discussion with the applicant/participant, and submit its decision in writing, certified mail return receipt requested, to the applicant/participant within fifteen (15) days. A timely received request for reconsideration tolls the twenty (20) day time period for appeal of an adverse action. Upon receipt of an adverse reconsideration decision, the applicant/participant may submit a petition for appeal if the decision is based on appealable matters pursuant to Section 2 above.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.6 Procedure for Petition for Appeal.

A. The applicant/participant petitioning for appeal, must file its petition in writing with the Director of Minority Business Enterprise Division, Mississippi Development Authority, P. O. Box 849, Jackson, Mississippi 39205-0849 not later than twenty (20) calendar days from the date the notice of adverse action was mailed; or within twenty (20) calendar days from the date the decision on a Request for Reconsideration under Section 4 above was mailed The petitioner must specify within its petition for appeal the grounds upon which administrative review of the decision is sought. The petition must clearly indicate the type of remedy requested and name the contact representative for the petitioner. A hearing shall be held only if the petitioner specifically requests a hearing in its petition for appeal. If no petition for review of an appealable adverse action is filed within the above stated time, the decision shall become final.

B. MBED shall acknowledge the receipt of the request for appeal within seven (7) calendar days of receipt. Such acknowledgement shall designate the review officer.

C. Filing of a petition for appeal shall not stay the effect of the MBED's adverse action.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.7 Review Officer. The review officer shall be an independent and impartial officer other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section. The review officer may, however, be an employee of the MDA.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.8 Procedure for Hearing on Appeal.

A. The petitioner may refute the grounds on which MBED based its action in person and/or by written documentation submitted to the review officer. In order to be considered, all written documentation of the petitioner and MBED must be filed with the review officer with a copy to the opposite party not later than thirty (30) calendar days after the mailing of the acknowledgement of appeal.

B. The petitioner may retain legal counsel at its own expense. A hearing shall be held by the review officer in addition to, or in lieu of, a review of written information submitted by the petitioner only if so specified in the petition of appeal. The review officer shall set a hearing date which date shall not be later than thirty (30) calendar days from the date of mailing of the acknowledgement of appeal, unless the parties agree to a later date. Failure of the petitioner or its counsel to appear at a scheduled hearing shall constitute waiver of the hearing. A representative of MBED shall be allowed to attend the hearing to present evidence, respond to the petitioner's testimony and to answer questions posed by the review officer.

C. Any hearing shall be conducted in such a manner that all parties have a fair and reasonable opportunity to present witnesses and other evidence pertinent to the issues. In conducting the hearing, the review officer shall not be bound by common law or by statutory rules of evidence or by technical or formal rules of procedures, but may conduct the hearing in such a manner as best to ascertain the rights of the parties. However,

hearsay evidence (if presented) shall not be the sole basis for the determination of facts by the review officer. The review officer may also ask questions to clarify issues, limit the examination or cross-examination of witnesses to keep the hearing focused on the issue, and recess/reconvene the hearing if necessary.

D. If any party to the appeal wishes to have stenographic notes of the proceedings, that party shall be solely responsible for payment of a court reporter for that service; the review officer shall, on request, engage a court reporter for this purpose. An audio tape recording shall be made of the proceedings and may be duplicated and/or transcribed at the expense of either party requesting it.

E. It shall be the responsibility of each party to secure the attendance of such witnesses as deemed necessary to present the case; any expense connected with that attendance shall be borne by the party responsible for the attendance of that witness. The review officer shall not have power to subpoena witnesses or documents.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.9 Recommendation. After conducting de novo review of the materials submitted by the parties and of the evidence taken at the hearing, if any, the review officer shall make a written recommendation to the Executive Director of the Mississippi Development Authority (MDA). The written recommendation will be issued to the Executive Director within twenty days (20) after the hearing is completed or, if no hearing is held, after submission of any written documentation permitted by Section 7(a) above. The recommendation of the review officer shall contain specific reason(s) why the denial or termination decision should be upheld or overturned. A copy of the recommendation will be sent to petitioner and to the Director of MBED by certified mail return receipt requested.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.10 Executive Director Review.

A. After review solely on the record, the Executive Director may adopt the recommendation of the review officer or may issue a differing decision. The Executive Director will issue his decision within fifteen (15) calendar days of receipt of the recommendation of the review officer. A decision adopting the recommendation of the review officer need not contain any additional reasoning.

B. The decision of the Executive Director shall be sent by certified mail return receipt requested to the petitioner and to the Director of MBED. The decision of the Executive Director is final.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.11 Remand. In the event an appealable adverse action is overturned as a result of an appeal the Executive Director of MDA may direct, the disposition to be made by MBED of the application, renewal or termination; or the application may be remanded to MBED for further action consistent with the decision of the Executive Director. MBED will indicate what steps, if any, must be taken to complete or reinstate certification.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.12 Immunity. Nothing in the appeal procedure shall be construed as a waiver of the immunities from suit conferred upon the State of Mississippi, MDA, or any of its employees, officers, agents or designees, under the Eleventh Amendment of the United States Constitution and the Constitution and laws of the State of Mississippi.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Part 2 Chapter 3: Minority Business Enterprise Loan (MBE) and Micro-Loan (MBEM) Programs

Rule 3.1 MBE Overview. The Mississippi Business Enterprise Loan Program, administered by the Mississippi Development Authority, combines state and private lending sources to assist new and existing minority business in gaining access to needed capital in the form of direct low-interest rate loans. The State of Mississippi amount ranges from $35,001 to $250,000 with the potential of $500,000 with 50% match from another lending source or entity.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.2 Eligibility. To be eligible for funding under the program, the Minority Business Enterprise must be a socially and economically disadvantaged small business concern. The business must be organized for profit, perform a commercially useful function and be owned or controlled by one or more minorities or women.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.3 Definitions. For purposes of this program, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 U.S.C.S., Section 637 (A)) and shall include all women. MBE Loan applicants, regardless of race or gender, must be determined to be socially and economically disadvantaged due to diminished capital and credit opportunities as compared to others in the same business area that are not socially disadvantaged.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.4 Ability to Repay. All applicants must be credit worthy and demonstrate the ability to repay the loan, must be in compliance with all state and federal regulatory agencies, and must not be in default on any previous loans from the state or federal government. No minority business will be eligible if it is:

A. A charitable institution or nonprofit organization
B. A newspaper, magazine, radio, television broadcasting company or similar enterprise through which editorial opinions are expressed
C. Engaged in the business of lending, directly or indirectly

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.5 Proper Use of Loan Proceeds. MBE loan proceeds may be used to finance costs associated with the creation or expansion of a minority business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.6 Borrower Investment Requirement for a New Business. When loan proceeds are used to start a new business or to purchase an existing business, the total project cost is the amount required to establish or acquire that business. The borrower must inject a minimum of five percent (5%) equity into the project in the form, of cash of tangible assets such as land, building or equipment.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.7 Borrower Requirements to Expand an Existing Business. When loan proceeds are used to expand an existing business, the total project cost will be the total funds required to complete the proposed expansion. Assets owned by the business prior the expansion are not to be included in the project cost, unless it can be clearly documented that assets acquired prior to the application were purchased as a part of the expansion project. Existing business assets may be used as collateral for the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.8 When Loans are Unavailable. MBE loans are not available under the following circumstances:

A. To pay off existing debts 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 Minority Business and would not change the ownership interest of the business (does not apply to ordinary compensation for services rendered in the course of business);
D. If the loan funds would provide or free funds for speculation in any kind of property;
E. If the assistance would finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment, or;
F. If the assistance would finance vehicles.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.9 Terms of MBE Loan(s). The maximum term of the MBE loan shall be seven (7) years for working capital, ten (10) years for machinery and equipment, and fifteen (15) years for land and building. If loan proceeds are to be used for a combination of working capital, machinery and equipment, or land and building, then a blended term may be used that is proportionate to the use of the funds and to the collateral securing the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.10 Proper Use of MBE Loan Funds. MBE loan funds may be used to fund fifty percent (50%) of total project that consist of borrowed costs or $250,000, whichever is less. The minimum total project eligible for consideration is $15,001. Any project requests of $35,000 or less may be eligible for funding under the Minority Micro-Loan Program as outlined below. A combination of state funds may be used to finance project costs; however, the combination of these funds may not exceed 50% of the total project that is borrowed.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.11 Interest Rate on MBE Loan(s). The minimum interest rate, which may be charged to the minority business on MDA's portion of the MBE loan, is two percent (2%) below the Federal Reserve Discount Rate, and the maximum is two percent (2%) above the discount rate. Should the interest rate change from the date of commitment to the date of closing, the interest rate quoted in the commitment will prevail.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.12 Collateral on MBE Loan(s). Collateral on MBE loans made by the qualified entity should normally be subordinated to the senior lender.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.13 Fees on MBE Loan(s). The qualified entity may charge an origination fee of up to 1% on the first $250,000 loaned. Additional fees paid by the borrower in connection with the closing of the MBE loan are limited to attorney fees and other associated closing costs that may not exceed $750. These fees may be paid from proceeds. Should extenuating circumstances cause fees to exceed these stated amounts, written justification should be provided along with the settlement sheet.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.14 MBEM Overview. The Mississippi Business Enterprise Micro-Loan Program provides a funding source for businesses needing financing for small projects. Loan amounts for projects range from $2,000 to $35,000 with an owner's equity injection (i.e. cash, tangible equity such as land, building(s) or equipment) of five percent (5%).

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.15 Terms of MBEM Loan(s). The terms allowed are determined by the loan amount and should relate to the type of collateral offered. Terms should not exceed three (3) years for loans of $2,000 to $5,000, four (4) years for loans of $5,001 to $10,000, five (5) years for loans of $10,001 to $15,000, and seven (7) years for loans of $15,001 to $35,000.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.16 Proper Use of MBE Micro-Loan Funds. MBE Micro-Loan funds may be used to finance up to 100% of total projects of $2,000 to $35,000. All borrowers must have at least 5% equity in the project. These funds are not intended to be used as gap financing and proceeds shall not be utilized with any other financing.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.17 Interest Rate on MBE Micro-Loan(s). The interest rate to be charged is four percent (4%) over the Federal Reserve Discount Rate, fixed for the term of the loan. Should the interest rate change from the date of commitment to the date of closing, the interest rate quoted in the commitment will prevail.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.18 Collateral on MBE Mircro-Loan(s). Collateral shall include a first lien on all assets acquired with loan proceeds. Collateral may also include liens on other business and/or personal assets as deemed necessary to adequately secure the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.19 Qualified Entity Involvement in Approval of MBE Mircro-Loans. The qualified entity's Board of Directors may choose to appoint an in-house loan committee comprised of staff members of the Qualified Entity to approve micro-loan applications. MDA will require a copy of the board minutes authorizing the in-house committee prior to the submission of loan applications.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.20 Fees on MBE Micro-Loan. The qualified entity may charge an origination fee of up to 1% of the loan amount. At the option of the qualified entity, a minimum fee of $100 may be established. Additional fees paid by the borrower in connection with the closing of the MBE Micro-Loan are limited to attorney fees and other associated closing costs. These fees may be paid from loan proceeds.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.21 Application Submission. Applications may be submitted by mail or facsimile to MDA. A credit report and a personal financial statement of each owner of the minority business must accompany the application. All other documentation as indicated on the application form shall be retained on file with the qualified entity.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.22 Application Requirements. All qualified entities will provide applicants under this program an application packet that includes the MBE loan application, a summary of the loan

program criteria, eligibility requirements, a summary of the application process, loan closing procedures, and applicable fees. All MBE loan requests shall be submitted to MDA on the approved Minority Business Enterprise Loan Application. This application is intended to be completed by the qualified entity with information provided by the applicant. The qualified entity's board or designated loan committee shall first have approved all loans submitted to MDA for consideration. At a minimum, the composition of the Board of Directors shall include an individual with current banking experience, an individual owning a for-profit, commercial enterprise, a minority individual with current experience in banking or business ownership and a female with current banking or business ownership experience.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.23 Notification of Approval. When an application has been approved, MDA will notify the Qualified Entity in writing. Upon receiving MDA'S approval, the qualified entity may submit a request for payment form. MBE loan proceeds not disbursed by the Qualified Entity within sixty (60) days of receipt must be returned unless an extension is granted by MDA or be subject to interest penalties.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.24 Reporting Requirements. Each qualified entity will be required to file status reports with MDA as of December 31 and June 30 of each year summarizing project information and fund uses. These reports are due on January 31 and July 30.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.25 Audits. An independent audit of grant funds received in connection with this program shall be submitted to MDA annually. This audit shall include a reconciliation of all bank accounts where MBE funds are being held on deposit.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Part 2 Chapter 4: Mississippi Capital Access Contract Loan Program (MS CAP)

Rule 4.1 Overview. The Mississippi Capital Access Program, administered by the Mississippi Development Authority (MDA), is designed to increase the availability of financing for borrowers who for various reasons might have difficulty in obtaining conventional loans. The essential element of the program is a loan secured by proceeds of a public contract ("Contract Loan"). The loan will be made on the basis of a construction contract with a public entity having been awarded to the borrower.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.2 Definitions. For the purpose of this program, the "socially and economically disadvantaged" shall have the meaning ascribed to such term under the Small Business Act (15 U.S.C., Section 637[a] and shall include woman. Businesses qualifying as minority or women

owned must sign a notarized affidavit indicating ownership.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.3 Proper Use of CAP Loans. Contract loans may be used for cost associated with a construction project or construction related contract being used as collateral for each loan. In the event the contract involves a subcontractor, the subcontractor may also apply for the Capital Access Contract Loan. In this case, the prime contractor or other qualified entities must agree to pay the subcontractor's loan amount directly to the lending institution. The maximum amount that may be loaned to anyone borrower is the greater of $75,000.00 or 75% of the contract amount. This loan program has a limit of three loans per borrower. The loan may not be used in conjunction with any other State finance program. The Mississippi Development Authority may at its discretion require control of use and disbursement of funds on these loans. The applicant will be responsible for the cost of all fees associated with the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.4 Improper Use of CAP Loans. Capital Access Contract 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 a loan to owner, partners, or stockholders of the Small Business and would not change the ownership interest of the business (does not apply to ordinary compensation for services rendered in the course of business);
D. If the loan funds would provide funds for speculation in a any kind of property; or if the assistance would finance the acquisition, construction, improvement, or operation of real property which is to be held primarily for sale or investment;
E. If the loan is for construction or purchase of residential housing.

Each loan made under the Capital Access Contract Loan Program must be approved by the Mississippi Development Authority.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.5 Eligibility. An eligible Financial Institution is any commercial bank, savings bank, or association domiciled or qualified to do business in the State and other types of financial institutions, including but not limited to Small Business Investment Corporations, (Hereafter referred to as "Financial Institution"). For the purpose this loan program, the participating Financing Institutions will be those that have qualified to participate in the Capital Access Loan Program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.6 Eligible Businesses. Businesses, which are eligible to participate in the Capital Access Program, must fall into one of the following categories:

A. A Small Business, which is defined as any independently owned and operated for-profit, commercial enterprise domiciled in the State with less than 50 full-time employees. Owner(s) must have completed the Model Contractor Development Program or completed the small business training programs offered through the Entrepreneur Center; or

B. A Small Disadvantaged Business, which is publicly owned with at least 51 % of its stock unconditionally owned by one or more socially and economically disadvantaged individuals, and whose management and daily operation is controlled by one or more such individuals; or

C. A Minority Business that meets the definition of a minority or woman owned business. A minority or woman owned business is a business enterprise, which is socially and economically disadvantaged and owned and operated by one or more women or eligible minorities. The business must be organized for profit and perform a commercially useful function.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.7 Sole Proprietorship Restriction. If the Small Business is a sole proprietorship, the owner must be a resident citizen of the State of Mississippi and if the business is a corporation or partnership, at least 51 % of the owners must be resident citizens of Mississippi.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.8 Ability to Repay. The small business must be credit-worthy and demonstrate the ability to repay the loan, the ability to successfully fulfill the contract being used as collateral, must be in compliance with all state and federal regulatory agencies, and must not be in default on any previous debt or obligation with the state or federal government.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.9 Ineligible Small Businesses. Small Businesses that are not eligible for assistance under this program are:

A. Charitable institution or nonprofit enterprise; or

B. Newspaper, magazine, radio, television broadcasting company, or similar enterprise through which editorial opinions are expressed; or

C. Businesses engaged in lending, directly or indirectly;

D. Immediate relatives of any current staff or board members of a Financial Institution.

E. Immediate relative is defined as a spouse, parent, child or sibling of the applicant.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.10 Use of Loan Proceeds. MS CAP may be used to finance costs associated with the creation or expansion of a Small Business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction, and professional fees related to the project. The maximum amount that may be loaned to anyone borrower is $150,000. The Loan may not be used in conjunction with any other State finance program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.11 Restriction on Use. The Financial Institution sets the terms and conditions of the MS CAP loan. However, the funds cannot be used to pay off:

A. Existing debt and/or creditors; or
B. Consolidation purposes;
C. Construction or purchase of residential housing; or real property that is held primarily for sale or investment.

Each MS CAP Loan must be approved by MDA to qualify for the program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.12 Contribution Outline.

A. Small Business	A minimum of 1.5% of the loan amount; A maximum of 3.5%
B. Financial Institutions	Will match the amount deposited by the Small Business (The Financial Institution may recover all or part of its contribution from the Small Business in the form of loan proceeds or cash injection)
C. Capital Access Program	Will match the total amount contributed by the Financial Institution and the Small Business.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.13 Loan Terms. The interest rate on this loan program shall be 0%. The length of the secured contract shall dictate the length of the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.14 Applications. Interested borrowers should contact a participating financial institution and for any additional information pertaining to the Mississippi Capital Access Program, please contact:

MISSISSIPPI DEVELOPMENT AUTHORITY
Financial Resources Division
Post Office Box 849 . Jackson, MS 39205
Telephone: (601) 359-3552 or Fax: (601) 359-3619

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Title 6: Economic Development

Part 3: Energy

Part 3 Chapter 1: Mississippi Energy Investment Loan Program

Rule 1.1 Purpose. The Mississippi Energy Investment Program ("Energy Investment Program"), administered by the Mississippi Development Authority ("MDA") is designed for making loans to qualified borrowers (the "Borrower") to promote development and demonstration of efficient, environmentally acceptable and commercially feasible technologies, techniques and processes while effectively utilizing the state's existing alternative and conventional energy resources to foster economic and social growth. Funding for the loans to the Borrower is derived from the appropriated funds which were a part of the Petroleum Violation Escrow Fund, M.D.L. 378 Oil Overcharge funds. The Energy Investment Program was enacted pursuant to Section 57-39-39, Miss. Code of 1972, as amended, and In Re: The Department of Energy Stripper Well Exemption Litigation, United States District Court, Kansas, M.D.L. No. 378, 1986 (jointly the "Act").

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.2 Eligibility. In order to obtain assistance under the Energy Investment Program, the applicant must be declared financially sound and capable of repaying the loan and must meet one of the following criteria:

A. Corporation;
B. Partnership;
C. Hospital (Public and private "non-profit");
D. Institutions of higher learning;
E. Community Colleges;
F. Schools (public or private);
G. Local Government entities

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.3 Eligible Projects. Eligible projects include retrofits and energy design process developments. The improvement must promote the development and demonstration of efficient, environmentally acceptable and commercially feasible technology and processes, and must also utilize Mississippi's existing energy resources, public utilities and/or developing resources to foster economic growth. In order for a project to be eligible to receive such assistance, the project must qualify pursuant to the two (2) phase eligibility requirements provided below:

A. Phase 1 Structural Eligibility: The structure, which is to be the target for the installation of energy efficiency measures will be financed with the proceeds of a loan, shall be considered eligible only if it is an existing structure that is at least one (1) year old, owned, occupied and used by the Borrower and, **is not**:

(i). Classified as condemned or scheduled for demolition; or,

(ii). Leased or rented by the applicant from another party unless the landlord has given the tenant written permission to proceed with the installation; or,

(iii). Encumbered by a real estate transaction or purchase option; or,
(iv). Included on the National Register of Historic Landmarks and Sites maintained by the U.S. Secretary of the interior or , if included, has received approval of the Mississippi Department of History and Archives to perform the work; or,
(v). Encumbered by subordinated mortgages, mechanics, or materialmen's, and/or any other types of liens that would prevent MDA from obtaining a security interest.

B. Phase 2 Eligible Retrofit Measures: Loans will be made available only for the purchase and installation of energy conservation measures that have been identified and recommended by an energy technical analysis. The combined simple payback of all the energy conservation measures being installed cannot exceed ten (10) years. Such technical analysis shall be performed by MDA. An energy conservation measure is one that is primarily intended to reduce energy consumption or allow the use of an alternative energy source. Loans cannot be used to finance projects that were completed prior to, or in the process of being installed, at the time of an application. Neither may a loan be used to finance "cosmetic" or rehabilitative improvements unless energy savings are justifiable. Eligible energy conservation measures include, but are not limited to, the following:

(i). insulation;
(ii). storm windows and doors, multi-glazed and other specially treated windows and door systems;
(iii). automatic energy control systems/energy management systems;
(iv). equipment to operate variable steam, hydraulic, and ventilating systems;
(v). solar heating and cooling systems, and electric generating systems;
(vi). furnace or utility plant and distribution system modifications to include burners, furnaces, boilers, and ignition systems;
(vii). caulking and weather-stripping;
(viii.) lighting fixtures and lamps;
(ix). energy recovering systems;
(x). cogeneration systems; and/or
(xi). other measures that can be shown to save energy or reduce energy demand.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.4 General Loan Terms. The maximum amount, which may be loaned from the Energy Investment Program to finance any one (1) project, is Three Hundred Thousand Dollars ($300,000). The fixed rate of interest which shall be set at the time the application is approved, will be three percent (3%) below the New York Prime Rate with a term not to exceed ten (10) years. The term and the repayment schedule will be established by MDA.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.5 Liens and Collateral. Ach 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 or measures installed or security interest in other assets. It should be noted MDA will require a one percent (1%) good faith deposit on projects involving real estate pledged as collateral. In the case of projects for local

government entities and public schools, MDA will require a pledge and assignment of tax revenues collected by such entity.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.6 Borrower Application Process. The application to be submitted by a Borrower 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 with a detailed breakdown of all public and private sources of funding;

C. The time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;

D. Submit company balance sheets, income statements and statements of cash flow for

E. the previous three (3) fiscal years and current statements dated within ninety (90) days

F. of application.

G. For local government entities and public schools:

(i). Certified proof of publication of the Resolution of Intention of the government entity to apply for an Energy Investment Program loan. The Resolution must be published once a week for at least four (4) consecutive weeks in a newspaper having general circulation in the county;

(ii). 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;

(iii). Opinion of counsel from the public schools and/or local government entity addressing the authority to borrow under the Energy Investment Program and to pledge a tax base as collateral for such loan; and

(iv). Most recent audited financial statements.

H. Two (2) copies of the application must be submitted to MDA. As part of the application process, MDA will perform a technical analysis. A technical analysis evaluates the ability of the Borrower to conserve energy or to improve the efficiency of a process through the installation of energy saving measures of the use of an alternative energy source. The technical analysis must clearly explain the measures to be undertaken and detail the energy savings and other revenue benefits attributable to the project. MDA will evaluate the application to determine if the project meets the program criteria and what terms and conditions the loan shall bear.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.7 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. At the time of the closing, the Borrower will be responsible for providing to MDA a one percent (1%) closing/servicing fee. The Borrower will also be responsible for paying for all costs associated with the closing of the loan, including searches and filing fees.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.8 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 documentations from the Borrower based upon a scheduled established by MDA.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.9 Audit. Loans made under the Energy Investment Program are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.10 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. § 57-39-39 (Rev. 2008)

Title 6: Economic Development

Part 4: Community Services

Part 4 Chapter 1: Small Municipal and Limited Population County Grant Program (SMLPC)

Rule 1.1 Purpose. The Mississippi Small Municipal and Limited Population County Grant Program (SMLPC), administered by the Mississippi Development Authority (MDA), is designed for making grants to small municipalities and limited population counties or natural gas districts ("Local Sponsors") to finance projects to promote economic growth in the State of Mississippi ("State"). Funding for grants to Local Sponsors is derived from appropriations or funds otherwise made available by the State Legislature.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008).

Rule 1.2 Eligibility. A small municipality or a limited population county must submit an application to MDA. An eligible municipality, county and gas district is defined as follows:

A. Small Municipality: a municipality with a population of 10,000 or less, according to the most recent federal decennial census, at the time the application is submitted by the municipality.

B. Limited Population County: a county with a population of 30,000 or less, according to the most recent federal decennial census, at the time the application.

C. Natural Gas Districts: districts created by law and meeting the same requirements as small municipalities.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.3 Eligible Projects. Eligible projects financed with Mississippi Small Municipal and Limited Population County Grant Program funds must be publicly owned. All contracts and purchases must be made in accordance with normal bid and purchase laws of a municipality or county. Eligible projects shall have a direct connection to economic development or aid in the creation of jobs. Eligible projects include, but are not limited to:

A. Purchase, construction or rehabilitation of public buildings to include:
   - (i). Town halls
   - (ii). Libraries
   - (iii). Police Stations
   - (iv). Fire Stations
   - (v). Community Centers
   - (vi). Courthouses
   - (vii). Other Publicly Owned Buildings

B. Downtown Improvements to include:
   - (i). Sidewalks
   - (ii). Streets (only for town centers)
   - (iii). Lighting
   - (iv). Facade Improvements

(v). Beautification Improvements (waste receptacles, stop signs, street signs, landscaping, awnings, etc.)
(vi). Other downtown improvements as approved by MDA

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.4 Restrictions. SMLPC funds may not be used for working capital, for general expenditures, which would normally be covered under a local sponsor's general operation budget, or for administrative expenses. 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 SMLPC grant award amount.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.5 Competition. The SMLPC Program is a competitive program. As such, all funds awarded must be spent for improvements within the scope of the original project description as stated in the grant application. 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. 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.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.6 Changes to Original Application. 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. § 57-1-18 (Rev. 2008)

Rule 1.7 Steps to Apply. To apply for the Small Municipal and Limited Population County Grant Program, a completed application that is submitted by a Local Sponsor 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 Local Sponsor'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. A statement that the specific improvements are necessary for economic development
E. or job creation;
F. Engineering documentation;
G. Current employment levels at the project site and estimated increase, if any, as a result of financing the project; and
H. Copy of the Local Sponsor's resolution of authorization to apply for grant funds.
I. One (1) copy of the application must be submitted to the Community Services Division of MDA, Small Municipal and Limited Population County Grant Program, Post

Office Box 849, Jackson, Mississippi 39205 or hand-delivered to the 5th floor of the Woolfolk Office Building.

J. It should be noted that the Executive Director of "MDA" might in his discretion commit grant funds to projects prior to the application deadline. Such commitments would be made only if a specific project is involved and timing of the grant award would have a direct effect on the location or expansion of the project

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.8 General Grant Terms.

A. The program intent is to stimulate growth and economic development in small communities in the State.

B. The maximum grant amount, which may be awarded to any one Local Sponsor, will be $100,000.

C. The amount of each grant awarded will be based on population, ability of the community 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.

D. Each application will be evaluated on its own merit to meet the intent of the program.

E. There is a dollar for dollar match requirement. No application will be reviewed that doesn't provide at least a 50/50 match ratio. Matching funds must be in place by the time the application is due to MDA.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.9 Conditions for Disbursement of Funds. A Grant Agreement will be executed between the Local Sponsor and MDA. All funds will flow through the Local Sponsor.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.10 Reimbursement Process. MDA will release SMLPC program funds for services rendered or 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 and application approved by MDA. Funds will be released upon receipt of the SMLPC Program Form of Requisition and supporting documentation from the Local Sponsor. Funds may only be drawn down once a month. Local Sponsors have two (2) years from the date of the Grant Agreement to request reimbursement for SMLPC project costs.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Part 4 Chapter 2: Rural Impact Fund Grant Program (RIF)

Rule 2.1 Purpose. The Mississippi Rural Impact Fund Program (RIF) administered by the Mississippi Development Authority (MDA) is designed to assist and promote businesses and economic development in rural areas by providing grants and loans to rural communities (Local

Entities) and loan guarantees to rural businesses (Businesses). Funding for grants and loans to Local Entities and loan guarantees to businesses is derived from appropriations or funds otherwise made available by the State Legislature. The State Legislature enacted the RIF during the 2003 regular session. (See H.B. 1335).

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.2 Eligibility. A rural community must submit an application to the MDA. An eligible rural community and business are defined as follows:

A. Rural Community: a municipality with a population of 10,000 or less, according to the most recent federal decennial census, at the time the application is submitted by the municipality; or, a county with a population of 30,000 or less, according to the most recent federal decennial census, at the time the application is submitted by the county.

B. Rural Business: means a new or existing business located or to be located in a rural community; or, a business or industry located or to be located within five miles of a rural community.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.3 Eligible Projects. Eligible projects financed with RIF must be publicly owned with the exception of loan guarantees to rural businesses. All contracts and purchases must be made in accordance with normal bid and purchase laws of a municipality or county. Eligible projects include, but are not limited to:

A. Construction, rehabilitation or repair of building;

B. Sewer systems and transportation directly affecting the site of the proposed rural business;

C. Sewer facilities;

D. Acquisition of real property, development to real property, improvements to real property;

E. Any other project approved by MDA, and

F. Loan guarantees to Rural Businesses not to exceed eighty percent (80%) of the principal loan amount.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.4 Ineligible Projects. Gaming and utility businesses.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.5 Soft Cost. Eligible Projects must have a direct connection in creating jobs. RIF may be used for general expenditures in an amount not to exceed three percent (3%). (For example: $250,000 x .03 = $7,500). A limited amount of funds may be used for engineering, architectural, attorneys, consultants, agents and /or advisors costs. The amount of these professional services will be limited to an amount not to exceed eight percent (8%) of the RIF award amount. All funds awarded must be spent for improvements within the scope of the original project description as stated in the grant or loan application. Additionally, if grant or loan recipients

complete their project for less than the amount awarded, the excess funds will be returned to MDA. All requested changes and variances from the original application for the projects awarded must be made in writing and will be reviewed by MDA on a case-by-case basis.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.6 Rural Community Application. The application that is submitted by a local entity must include:

A. Purpose of the proposed grant and/or loan including a detailed list of the request;
B. A Description of the proposed project;
C. The estimated cost of the total project by major category (e.g. engineering, legal, administration, etc.) and all public or private sources of funding that have been secured that will be utilized exclusively for the project;
D. A time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
E. A statement that the specific project will create at least five jobs along with an F. estimated number of jobs to be created;
F. Engineering or architectural documentation where applicable;
G. The municipality or county's most recent unemployment rate at the time of application submission;
H. A copy of the Rural Community's Resolution of Authorization to apply for funds;
I. A statement reflecting how the project will be managed, and who will manage it;
J. Applications for loan guarantees must include the requested loans terms, reasonable interest rates, collateral position, and requested percentage of loan guarantee. The loan terms, the interest rate, and the percentage of loan guarantee will be based on the number of jobs created and the financial position of the rural business.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.7 Rural Business Application. For Rural Business Loan Guarantees, the business must provide the following:

A. Credit reports and personal income tax records on all investors with twenty percent (20%) or more investment in the company;
B. A description of the collateral with the appraised value, acquisition price and the expected life of the collateral;
C. The last three years of the company's annual audit, financial statements and tax returns;
D. For start-up companies, a business plan, three years of monthly proformas financial statements will be required, and
E. Corporate and personal guarantees.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.8 Application Process. Initially, any local unit of government seeking funding should set up a meeting or conference call with the RIF staff. At this meeting or conference call, the following information should be presented:

A. Project description
B. Preliminary budget
C. Source and use of funds

Based on this meeting or conference call, the Community Services Division (CSD) may issue a letter inviting a RIF application. The letter will state the amount of RIF funds that can be applied for, and the requirements.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.9 Selection Process. The process used for evaluating, selecting, and funding applications is based on the following:

A. Eligibility
B. Project readiness
C. Company's financial condition

One (1) original and one (1) copy of the application must be submitted to the Community Services Division of MDA, Rural Impact Fund Grant Program, 5th Floor Woolfolk Office Building, 510 North West Street, Jackson, MS. Applications will be accepted starting May 1, 2003. It should be noted that the Executive Director of MDA may at his discretion commit Rural Impact Funds to projects prior to an application being submitted to MDA, if a specific project is involved and timing of the award would have a direct effect on the location or expansion of the project. All projects funded should create a minimum of five (5) new jobs. A Rural Community may submit up to two applications during a calendar year; however, efforts will be made to fund projects representing all areas of the state.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.10 General. The program intent is to stimulate job creation and economic development in rural communities in the State. A grant amount of $250,000 or a loan amount of $350,000 will be the maximum for any rural community. A maximum of $350,000 will be allowed on 80% loan guarantees to rural business(es). Each application will be evaluated on its own merit to meet the intent of the program.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.11 Conditions for Disbursement of Funds. A Grant and/or Loan Agreement will be executed between the Rural Community/Business and MDA. The Agreement must be signed within one month of the grant award date. MDA will release Mississippi Rural Impact Program funds for services rendered, or on a reimbursement basis, for approved eligible costs of the project, as incurred. The Rural Community shall certify to MDA during construction that the expenses were incurred and were in accordance with the plans and application approved by MDA. Funds will be released upon receipt of the Mississippi Rural Impact Program Request for Cash and supporting documentation from the rural community. Funds may not be disbursed more frequently than monthly. Rural communities have one year from the date of the award to expend the funds under the Mississippi Rural Impact Program.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.12 Audit. Funds provided under the Mississippi Rural Impact Program are subject to audit by the State Department of Audit. Additionally, MDA will also monitor all projects to ensure compliance with the original application submitted. MDA intends to use up to three percent (3%) of the Rural Impact Funds available to hire staff to monitor funded projects and provide technical assistance.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.13 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: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Part 4 Chapter 3: The Local Governments Capital Improvements Revolving Loan Program (CAP)

Rule 3.1 Purpose. The Local Governments Capital Improvements Revolving Loan Program (CAP) administered by the Mississippi Development Authority (MDA) is designed for making loans to counties or municipalities (Applicant) to finance capital improvements in Mississippi. Applicants are encouraged to use these loans in connection with state and federal programs. Funding for loans to Applicants is derived from the issuance of state bonds. The State Legislature enacted CAP during the regular 1994 session. (See Section 57-1-301 through 57-1-335 et seq., Mississippi Code, Annotated.)

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.2 Eligibility. Application for assistance must be submitted by the governing authority of the county or an incorporated municipality.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.3 Eligible Projects. Projects that are eligible for assistance must be for capital improvements in Mississippi's counties and municipalities:

A. Construction or repair of water and sewer facilities
B. Construction or repair of drainage systems for industrial development
C. Improvements in fire protection
D. Construction of new buildings for economic development purposes
E. Renovation or repair of existing buildings for economic development purposes
F. Construction or repair of access roads for industrial development
G. Purchase of buildings for economic development purposes
H. Construction or repair of railroad spurs for industrial development
I. Construction of any county or municipally-owned health care facilities, excluding any county health departments

J. Construction, purchase, renovation or repair of any building to be utilized as an auditorium or convention center
K. Construction of multipurpose facilities for tourism development
L. Loans to a county to aid in retiring interest-bearing loans utilized for the purchase of a motion picture sound stage
M. Construction, repair and renovation of parks, swimming pools and recreational and athletic facilities. (Not intended to be used for school districts or for commercial purposes, such as health clubs, skating rinks, miniature golf courses, etc.)
N. Remediation of Brownfield agreement sites in accordance with Sections 49-35-1 through 47-35-25

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.4 Allowable Costs.

A. Construction costs (including reasonable and customary site work for buildings, right of ways, easements, etc.).
B. Up to 6% of the principal loan amount may be used for parking lots with new construction, renovation, and/or purchase of a building; and construction, repair and renovation of parks, swimming pools and recreational and athletic facilities.
C. Up to 4% of the principal loan amount may be used for fencing, recreational landscaping, and security lighting.
D. Up to 8% of the principal loan amount may be used for design work, i.e., engineer or architect excluding brownfield projects. Engineering and/or architectural costs above 8% must be paid from other funding sources.
E. Up to 10% of the principal loan amount may be used for a Mississippi Department of Environmental Quality (MDEQ) approved Brownfield Consulting Firm's fees for brownfield projects during the cleanup phase. Consultant fees above 10% must be paid from other funding sources.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.5 Disallowed Costs.

A. Remediation costs shall not include: costs incurred after the issuance of a No Further Action letter under Section 49-35-15, Mississippi Code of 1972, costs incurred before the executed brownfield agreement, costs incurred for any legal services or litigation costs, and any funds provided by any federal, state or local governmental agency or political subdivision.
B. Administration fees and legal fees for all capital improvements loans including brownfield projects.
C. The operating expenses, monitoring expenses and maintenance expenses incurred after the brownfield cleanup phase.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.6 Matching Fund Requirements. The construction or renovation of economic development buildings for speculative purposes requires a 50/50 match. The match must be in

cash or in-kind assets.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.7 Eligible Applicants. The Applicant must be an incorporated municipality or a county.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.8 Applicable Law. The Applicant must follow all state procurement and purchase laws. If an applicant has not advertised for bids within 120 days after receiving loan approval, the state will have the option to recall the CAP funds.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.9 Joint Applicants. If two separate local units of government jointly fund a project, the Applicants must have an inter-local agreement with the Attorney General's approval.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.10 Accounting. 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.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.11 Accounting Duties. The Applicant's certified public accountant, auditor, or fiscal officer must furnish to MDA the most current annual audit 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.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.12 Water Projects. The Public Service Commission must be consulted regarding water and wastewater projects.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.13 Fire Protection Loans. Fire protection loans shall be made to enhance structural fire fighting capabilities. Loans for fire trucks must meet the National Fire Protection Association standards.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.14 Access Road Requirements. If applicable, an access road for industrial development must follow state aid requirements. CAP loan funds are not to be utilized on major highway

projects.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.15 Railway Projects. If applicable, 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.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.16 Purchase of Buildings. The Applicant may not purchase a building that has been constructed in the last six months. The Applicant may not purchase an existing building or facility for more than the appraised value.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.17 Recreational Sites. Recreational sites developed with CAP assistance cannot be converted to uses other than their original scope/intent during the life of the loan.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.18 Advance Appraisals Required. If applicable, the Applicant will be required to obtain one appraisal and two review appraisals no more than three months prior to loan closing on buildings or facilities to be purchased.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.19 Lease Restrictions. The Applicant may not acquire buildings or facilities from individuals, companies, or corporations, and subsequently lease them to the seller (previous owner) within five years of acquisition.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.20 Legal Possession. The Applicant will be required to retain title on all capital improvements and brownfield sites until the loan has been repaid.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.21 Restriction on Loaning CAP Money. The Applicant will not be allowed to utilize CAP loan proceeds to make a loan to any private entity, public entity, or individual(s).

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.22 Tax-Exempt Status. If applicable, the Applicant must obtain written approval from the MDA-appointed legal counsel stating that the project qualifies for a tax-exempt status.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.23 Public Notice. 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.)

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.24 Acknowledgment of Intent to Proceed. Once the publication process is complete, a certified copy of the Applicant's minutes must be submitted showing their decision to proceed with the loan.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.25 Standard Application. The Applicant must fulfill the requirements of the standard application, which must be submitted to MDA for review and acceptance.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.26 Acknowledgment by the Executive Director. Before loan approval for remediation of a brownfield site, the Applicant must provide MDA with an executed copy of the brownfield agreement between the Applicant and the Executive Director of MDEQ.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.27 Proof of Ownership. Within thirty days after the brownfield agreement is executed and before any loan disbursements are released, the Applicant shall provide a copy of deed, clear certificate of title or other instrument certifying that the property is owned by the Applicant and subject to a brownfield site agreement.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.28 Use of Funds within One Year. During the brownfield clean-up process, the CAP funds must be expended within one year from the date of the loan approval, unless a waiver is granted upon good cause shown.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.29 Liability. The Applicant will be responsible for the operating and maintenance (O&M) of the brownfield site and for any post remediation monitoring required under the brownfield agreement.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.30 Reporting Amendments. Any amendments, changes or violations of the brownfield

agreement site must be reported to MDA and MDEQ within 10 business days.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.31 Contracts with Participating Parties. The applicant shall include in all contracts with Participating Parties a provision that each Participating Party agrees that any duly authorized representative of MDA and/or MDEQ shall, at all reasonable times, have access to any portion of the Project in which such Participating Party is involved until the completion of all brownfield agreement requirements.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.32 Other Funding Sources. If applicable, the Applicant must provide an award letter or documentation verifying other funding sources.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.33 General Loan Limitations.

A. An Applicant may borrow up to $1,000,000 per calendar year. Loans for the construction, repair and renovation of parks, swimming pools and recreational and athletic facilities shall not exceed $250,000 per project. Loans for remediation of brownfield agreement sites in accordance with Sections 49-35-1 through 49-35-25 shall not exceed $250,000 per site.

B. All loans shall have annual interest computed daily on the outstanding loan balance. Daily interest begins to accrue at the time of the first disbursement.

C. The Applicant will be required to expend all CAP loan funds within two years from the date of loan approval, unless a waiver is granted upon good cause shown. If the funds are not expended within the two years, MDA will have the option to adjust the loan to the actual disbursements and recall the remaining funds.

D. Before releasing any CAP Funds, the Applicant shall provide title insurance on all real property acquisitions or title opinion on all other projects from the Applicant's attorney.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.34 Loan Terms. The term of any loan must be reasonable and shall not exceed 20 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 all CAP loans is calculated according to the actuarial method. CAP loans that qualify for tax-exempt status shall be at 2% per annum; and taxable CAP loans shall be at 3% per annum. The interest on any loans converted from non-interest bearing loans on sound stages to other eligibility categories will be changed to an applicable interest-bearing rate. The loan term for fire trucks shall not exceed 10 years.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.35 Special Provisions. Under the 2005 Regular Legislative Session, $2,500,000 shall be

used only to provide loans to the counties and incorporated municipalities for remediation of a brownfield agreement sites under Sections 49-35-1 through 49-35-25.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.36 Audit. Funds provided under the CAP Loan Program are subject to audit by the State Department of Audit, MDA and/or MDEQ.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.37 Penalties. An Applicant which fails to meet repayment obligations shall cause all or part of its sales tax allocation and/or homestead exemption reimbursement to be withheld and may be subject to other penalties. (Section 57-1-303(4))

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.38 Delinquent Notice Process. Each month, invoices will be sent to communities with an active CAP 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 (Section 57-1-303(5)). 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. § 57-1-301 *et seq.* (Rev. 2008)

Part 4 Chapter 4: The Mississippi Development Infrastructure Program (DIP)

Rule 4.1 Purpose. The Mississippi Development Infrastructure Program (DIP), administered by the Mississippi Development Authority (MDA) is designed for making grants or loans to counties or municipalities (Local Sponsors) to finance infrastructure projects to promote economic growth 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 grants and loans to Local Sponsors is derived from the issuance of State bonds. DIP was enacted by the State Legislature during the Regular 1993 Session.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010)

Rule 4.2 Eligibility. The local governing authority of the county or municipality is eligible for the DIP program. Projects must be directly related to the construction, renovation, or expansion of a new or expanded industry.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010)

Rule 4.3 Eligible Projects. Eligible projects financed with DIP must be publicly owned. All contracts and purchases shall be made in accordance with normal bid and purchase laws of a municipality or county. Eligible projects include, but are not limited to:

A. Drainage systems
B. Energy facilities (power generation and distribution)
C. Sewer systems
D. Transportation facilities directly affecting the site, including roads, bridges, rail lines, or pipelines
E. Water supply systems
F. Marine structures
G. Land improvements

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.4 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. § 57-61-36 (Supp. 2010).

Rule 4.5 Application Requirements. The application that is submitted by a local sponsor must include:

A. Purpose of the proposed grant or loan
B. Resolution of authorization of the local sponsor to apply for DIP funds.
C. A Statement of willingness to comply with non-discrimination and equal employment opportunity requirements.

D. Current employment levels at the project site and estimated increase, if any, as a result of financing the project.
E. Submit a budget page showing the total cost of the project, a description of the local sponsor's investment in the project, and all public and private sources of funding that have been secured and that will be utilized exclusively for the project.
F. Timeline for implementation and completion of the project, evidencing an expeditious completion of the project
G. Last three (3) years of the company's audited financial statements or a letter of credit from a financially insured financial institution.
H. Engineering cost estimates and other pertinent documentation

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.6 Key Points.

A. Mississippi Development Infrastructure Program funds may not be used for working capital, gaming enterprises, general expenditures, which would normally be covered under a local sponsor's general operation budget, or for administrative expenses.
B. A limited amount of funds may be used for engineering/architectural cost. The amount of these professional services will limited to an amount not to exceed 10% of the DIP grant or loan award amount.
C. As such, all funds awarded must be spent for improvements within the scope of the
D. original project description as stated in the grant or loan application.
E. Additionally, if the recipients complete their project for less than the amount awarded,
F. the excess funds can be requested for additional project work as long as there is no change from the scope of the original project
G. No approved applicant shall be allowed to use excess funds to pay for the project costs that vary from the original project description.
H. 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. § 57-61-36 (Supp. 2010).

Rule 4.7 Application Process. Any local sponsor seeking funding should contact an MDA project manager with the EIB Division for an in-state company or the Global Division for an out-of-state company. After the initial evaluation, should the manager determine the project meets MDA standards, they will contact the Community Services Division (CSD) to discuss the project and check on availability of funds. Then upon request, the local sponsor should send the following information to CSD:

A. Project proposal
B. Engineering cost estimate
C. Budget page

Upon review of your proposal, MDA may issue a letter inviting a DIP application. The letter will state the amount of DIP funds that can be applied for and the requirements. An application will be made available to you at that time.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.8 Selection Process. The process used for evaluating, selecting, and funding applications is based on the following:

A. Eligibility
B. Project readiness
C. Company's financial condition

One (1) original of the application must be submitted to the Community Services Division of MDA, Development Infrastructure Program, Post Office Box 849, Jackson, MS 39205. DIP is open-ended and applications are invited as long as funds are available. It should be noted that the Executive Director of MDA may at his discretion commit DIP funds to projects prior to an application being submitted to MDA, if a specific project is involved and timing of the award would have direct effect on the location and expansion of the project.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.9 General Grant Terms. The program intent is to stimulate growth and economic development in the State. The maximum amount, which may be awarded to any one local sponsor, will be $150,000.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.10 Conditions for Disbursement of Funds.

A. A grant agreement or loan documents will be executed between the local sponsor and MDA.
B. All funds will flow through the local sponsor.
C. MDA will release DIP program funds for services rendered, or a reimbursement basis, for approved eligible cost of the project incurred.
D. Fund may only be drawn down once a month.
E. Local sponsors will have three (3) years from the date of the agreement to request reimbursement for DIP funds. Failure to implement and complete the project may result in the agreement being voided and funds de-obligated.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.11 Auditing and Monitoring. Funds provided under the Mississippi Development Infrastructure Program are subject to audit by the Mississippi State Auditor's office. Additionally, MDA will also monitor all projects to ensure compliance with the original application submitted. MDA intends to use up to three percent (3%) of the DIP funds available for staff to monitor projects and provide technical assistance.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010)

Part 4 Chapter 5: Hometown Mississippi Retirement

Rule 5.1 Official Community Support. In order to assure support of community leaders, a

resolution by the city governing authority endorsing the local retirement recruitment effort is required.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.2 Designation of a Sponsor. The program must have an official sponsoring organization with a retirement program director who will be accountable to the community and to the state. Examples of sponsoring organizations are chambers of commerce, economic development authorities, tourism development organizations and cities. The sponsor must be an official entity in order to be eligible for state funding.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.3 Funding. The sponsoring organization must commit a minimum of $20,000 per year for the local program (may include a portion of salary).

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.4 Quality of Life. The community's quality of life will be assessed by, but not limited to, the following:

A. Hospital: There must be a hospital within a 30-minute drive of the community and, preferably, closer.
B. Adequate Medical Services: Includes emergency services for stabilization and/or
C. referral/transport.
D. Available Housing: The community must have an adequate supply of both resale housing and rental housing sufficient to meet the needs of potential new retiree residents.
E. Adult Education: Opportunities through local community college, local university or branch of either.
F. Available Goods and Services: Shopping, restaurants, pharmacies, etc.
G. Recreation: Opportunities for retirees, such as golf, walking, exercising, etc.
H. Cultural Opportunities: Theater, art gallery, recitals, etc.
I. Crime Rate: Crime rate comparable to the national average.
J. Civic/Community Pride: Includes intangibles such as appearance or "curb appeal" of the entrances into and out of the downtown area; living conditions such as quality of housing, public safety, and environmental quality; economic equity and vitality; culture and heritage.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.5 Establishment of committees. Each city must have a general Retiree Attraction Committee to ensure the development of the following:

A. Community Inventory/Assessment (amenities, shortages)
B. Community Relations/Fundraising: The success of this program depends, to a large degree, on the support of churches, clubs, businesses, and local media.
C. Marketing and Promotion: A successful candidate for program certification should have in place:

(i). Marketing plan: The purpose of this plan is to focus on the type of retiree your community desires and how your program expects to achieve its goals. The plan should detail the mission, the target market, the competition, and analysis of your community's strengths, weaknesses opportunities and threats, and the strategies your program will employ to attain its goals.

(ii). Annual budget ($20,000 recommended for advertising, program materials and travel)

(iii). Retiree attraction brochure (must be approved by State HMR office and HMR Advisory Committee before printing).

(iv). Prospect package: While most cities will have some type of newcomers package, it is important that information sent to prospective retirees be relevant to their needs. Within 90 days of certification, the city must submit a complete retiree attraction package to the state office for approval (should include brochure, map, amenity brochures, available housing, and other as requested by potential retiree).

D. Connectors/Ambassadors – A group of retirees to the community committed to assisting the local program in its effort in retiree attraction and relocation. Must set up program to train group on how to make calls/tours of potential retirees.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.6 Community profile. The sponsor must develop a Community Profile similar to that used by many chambers of commerce. It will include such factors as crime statistics, local tax information, recreational opportunities, and housing availability.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.7 Retirement Community Yearly Self-Audit. Subsequent to certification the organization must commit to maintaining the following requirements:

A. Retiree Attraction Brochure with Reader Response Card

B. Establish/maintain nationwide toll free number and website must contain retiree attraction tab with pertinent information for relocating retirees

C. Maintain adequate funding to operate the local program and meet the certification requirements. This varies from each community depending on the level of promotion minimum $10,000.

C. Follow up leads with personal contact within two weeks of receiving the leads.

D. Annually sponsor/participate in a minimum of two of the following: environmental, social, educational, or community project/event.

E. Presence in a minimum of one national publication per year

F. Attendance at HMR meetings. The Retirement Director or designee must attend state meetings, using the state's July 1-June 30 fiscal year.

G. Marketing Activity: Retirement Director or designee must attend one out-of-state trade show each year or one documented marketing activity, which has received prior approval from the state office.

H. File quarterly reports to the Hometown Mississippi Retirement state by the stated deadline.

I. Submit annual program self-audit form, marketing plan, and annual budget to

Hometown Mississippi Retirement state office on or before August 1st of each year. (This will take effect August 1, 2004)

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.8 Entitled Benefits. As a Certified Hometown Mississippi Retirement city, each is entitled to have the benefit of assistance from the Mississippi Development Authority/Tourism Division Hometown Mississippi Retirement program in the form of but not limited to presence in the Mississippi Living Guide (official fulfillment brochure); presence in the Hometown Mississippi Retirement program website; advertising of and promotion in national mature market magazines; representation at national mature market consumer shows; bi-weekly notification of retiree leads for their area; eligibility to apply for a match-grant for promotional materials and advertising of their area.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.9 Results of Failure to Comply. As a result of the outcome of the annual self-audit, failure to comply with Hometown Mississippi Retirement certification requirements will result in the program being placed on probationary status for a period of six months.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.10 Meeting and Review. The Hometown Mississippi Retirement Program manager and a member of the Hometown Mississippi Retirement Program Advisory Committee will meet with the local program director to ascertain the nature of difficulties resulting in non-compliance status and to assist the director in the identification of and offer suggestions for the alleviation of non-compliance issues. A review by the Hometown Mississippi Retirement Program manager and the Hometown Mississippi Retirement Program Advisory Committee will be held after three months. Local and state officials may be notified.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.11 Termination of Certification. At the end of the probationary period, failure to be in compliance with the certification requirements will result in the termination of Hometown Mississippi Retirement certification status.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.12 Maintaining Happiness. As part of your community's retirement effort, an important aspect of the retiree assimilation process is for newcomers to feel welcome. This can be achieved by a number of methods:

A. Newcomer events such as picnics, dances, and golf tournaments;
B. Special organizations for in-migrant and in-place retirees;
C. Institute for Learning in Retirement in connection with your local college or university; and
D. Environmental, educational, and community projects sponsored by your connectors

such as a beautification project or adopt-a-school.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.13 Suggested Program Enhancements.

A. Develop a professional portfolio. This book, to be kept in the sponsor's office, is to have short biographies of various professionals for retirees to consult when seeking professional service providers.

B. Offering a gift /gift package to visitors and a welcome gift/packet to relocated retirees.

C. Partnering with local real estate professionals to have an up-to-date real estate guide of local properties for sale or rent.

D. Make personal contact to leads within two - three weeks of sending information to ensure information was received, to answer questions, and to invite prospects to visit.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Part 4 Chapter 6: Mississippi Single Family Residential Housing

Rule 6.1 Purpose. The Mississippi Single Family Residential Housing Fund (MSFRHF) was created as a revolving fund for the purpose of making loans to any agency, department, institution, instrumentality or political subdivision of the state; or any agency, department, institution or instrumentality of any political subdivision of the state; or any business, organization, corporation, association or other legal entity meeting criteria established by the Mississippi Development Authority (MDA) Community Services Division (CSD), through a hosing revolving loan program for the construction of single family residential housing for persons of low or moderate income. The legislation provided that MDA will administer the MSFRHF and funds shall be loaned to eligible projects for construction financing.

Source: House Bill 530, 1999 Regular Session

Rule 6.2 Program Objective.

A. Promote home ownership.

B. Provide low cost construction funds for housing production.

C. Expand the supply of decent, safe, sanitary, and affordable housing.

Source: House Bill 530, 1999 Regular Session

Rule 6.3 Allocation. The total amount of bonds issued to MDA was $5,000,000 less the issuance costs of $10,940.32. Therefore, $4,989,059.68 was available for the purpose of construction financing.

Source: House Bill 530, 1999 Regular Session

Rule 6.4 Lending Guidelines. The maximum and minimum loan amounts are $750,000 and $100,000, respectively. The loan amounts will be divided according to Participant's Pro Rata

Share. MDA, Fannie Mae, and MS Home Corporation (MHC) are considered as Participants under the program. The total funding sources for the program are as follows:

A. MS Home Corporation: $2,000,000;
B. MDA: $5,000,000, and;
C. Fannie Mae: $5,000,000.

The Ownership/Participation Percentages consist of 41.667% and 50%. Interest rates assigned by Participants are blended to leverage the cost and availability of construction financing. MDA's interest rate is assigned at 3% on funds disbursed. Loans may be for a term up to 2 years with a possible six months extension at the discretion of the Participants. The loans are made in the form of lines of credits and are reviewed for renewal on an annual basis. Loans that are funded shall not have a loan to value ratio that is greater than 80%.

Source: House Bill 530, 1999 Regular Session

Rule 6.5 Eligible Borrowers. Eligible borrower entities include the following:

A. For-profit corporations;
B. Nonprofit corporations;
C. Cooperatives,
D. Public agencies other than the MS Home Corporation,
E. General and limited partnerships;
F. Limited liability companies, and;
G. Sole proprietorships

Source: House Bill 530, 1999 Regular Session

Rule 6.6 Implementation and Assessment. MS Home Corporation serves as the Lead Lender that implements the program and is the primary point of contact for all loans funded under MSFRHF. MHC underwrites all loans to meet its credit requirements and other loan conditions, in addition, to Fannie Mae and MDA's guidelines. However, MHC submits to Participants loan documents for review and authorization before finalizing the loan approval. The documents are required to support underwriting review, assessment of ability to construct residential units, and credit analysis of the borrower. MHC submits to MDA and Fannie Mae by the 15th of each month, reports identifying the borrowers, outstanding loan balances, committed funds, total funded amounts, and repayment of funds. MDA requires the lead lender to remit the amount of interest due on loans on a monthly basis, Principal funds remains with MHC as long as the borrower's line of credit is active. The principal amount is only returned to MDA, when a line of credit is closed.

Source: House Bill 530, 1999 Regular Session

Rule 6.7 Fees. Fees are charged to cover administrative costs. All allowable fees are the obligation of the borrower.

Source: House Bill 530, 1999 Regular Session

Rule 6.8 Intended Borrower's. Loans are made to low to moderate-income families. The

maximum annual family income shall be equal to or less than 115% of median family income for the county as defined by the Department of Housing and Urban Development or $42,672.00, whichever is less.

Source: House Bill 530, 1999 Regular Session

Rule 6.9 Summary. As of July 31, 2005, there are twenty (20) borrowers of MSFRHF funds reporting on file. Presently, a total of $3,127,098.15 has been committed to borrowers. The remaining funds available are 3,222,669.07. A total of sixty-one (61) homes have been constructed.

Source: House Bill 530, 1999 Regular Session

Part 4 Chapter 7: HOME Program

Rule 7.1 Organizational Status (Legal Status) and Mission Requirements for CHDO Certification

A. Organized Under State/Local Law. An organization must show evidence to MDA either in its charter or articles of incorporation, that it is organized under state or local law.

B. Non-Profit Status. A tax exemption ruling from the Internal Revenue Service as evidenced by a 501(c) (3) or (c) (4) Certificate from the IRS.

C. Purpose of Organization. The organization's primary purpose must be the provision of decent housing that is affordable to low- income people. This must be evidenced by a statement in the organization's charter, articles of incorporation, by-laws, or resolutions.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.2 Additional Considerations.

A. Strategic Plan. CHDOs and CHDO aspirants are required to submit a comprehensive strategic plan to MDA. In order to be a comprehensive plan, the document submitted must address the following:

(i). The mission, goals, and vision of the organization
(ii). Whom you will serve
(iii). The organization's role in the community
(iv). The programs, services, and products you offer
(v). The resources needed to succeed
(vi). The best way to combine resources, programming and relationships to accomplish the organization's mission

B. F/A – 110 Conformity Statement. You will be required to submit a statement that commits your organization to comply with the federal regulations A-110. You may request a copy of this regulation from MDA if you need one. This statement must be on the organization's letterhead.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.3 Requirements. There are three specific requirements related to the organization's board, which must be evidenced in the organization's by-laws, charter, or articles of incorporation. These are:

A. Low Income Representation. At least ⅓ of the organization's board must be representatives of a low-income community served by the CHDO. The CHDO is required to certify the status of low-income representatives. There are three (3) methods to meet the HOME requirement that stipulates ⅓ of the organization's board be representatives of a low-income community serviced by the CHDO. If a potential board member fits one of the following descriptions, then he/she count towards fulfilling this requirement:

(i). The person lives in a low-income neighborhood where 51% or more of the residents are low-income. This resident does not have to be low-income. In order to qualify under this criteria, the board member must live in a low-income neighborhood where 51% or more of the residents are low-income. The board member does not have to be low-income. Neighborhood means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not encompass the entire area of the unit of a general local government.

(ii). The person is a low-income resident of the community. In order to qualify under this criteria, the board member must be a low-income resident of a community that the CDHO is certified to serve. Low-income is defined as 80% or less of area median family income.

(iii). The person was elected by a low-income neighborhood organization to serve on the CHDO board. The organization must be composed primarily of residents of the low-income neighborhood and its primary purpose must be to serve the interests of the neighborhood residents. Such organizations might include block groups, neighborhood associations, and neighborhood watch groups. In order to qualify under this criteria, the board member must be elected by a low-income neighborhood organization to serve the CHDO Board. The group must be a neighborhood organization and it may not be the CHDO itself. If the board member is qualifying under this criterion, a copy of the signed resolution from the neighborhood organization naming the individual as their representative on the CHDO is required.

B. Public Sector Limitations. No more than ⅓ of the organization's board may be representatives of the public sector. States or local governments who charter CHDOs may not appoint more than ⅓ of the board, and the board members appointed by the state or local government may not appoint the remaining ⅔ of the board members. If a person qualifies as a low-income person and a public official, their role as a public sector representative supersedes their residency or income status. Therefore, the official counts toward the ⅓ public sector limitation.

C. For Profit Limitations. If a CHDO is sponsored by a for-profit entity, the for-profit may not appoint more than ⅓ of the board. The board members appointed by the for-profit may not appoint the remaining ⅔ of the board members.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.4 Additional Considerations.

A. Board Stability. There should be stability/continuity of board members over the last several years.

B. Development Oversight. The Board should have a committee structure or other means of overseeing planning and development.

C. Board Skills. The Board members should have professional skills directly relevant to housing development. For example, real estate, legal, architectural, planning, construction, finance and management experience are all professional skills that are relevant to housing development.

D. Decision-Making. The Board should demonstrate the ability to make timely decisions using an appropriate process.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.5 Requirements for Sponsorship.

A. Control. The CHDO is not controlled, nor receives directions from individuals or entities seeking profit from the organization, as evidenced by the organization's by-laws or a Memorandum of Understanding.

B. Creation or Sponsorship by a For-Profit Entity. If sponsored or created by a for-profit entity, the for-profit entity's primary purpose does not include the development of management of housing, as evidenced in the for-profit organization's by-laws.

C. Freedom to Contract for Goods and Services. If sponsored or created by a for-profit entity, the CHDO is free to contract for goods and services from vendor(s) of its own choosing, as evidenced by its by-laws, charter, or articles of incorporation.

D. Sponsorship by a Religious Organization. If sponsored by a religious organization, the CHDO is a separate secular entity from the religious organization, with membership available to all persons, regardless of religion or membership criteria, as evidenced by its by-laws, charter, or articles of incorporation.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.6 Organizational Structure Requirements. The HOME Program establishes requirements for the organizational structure of a CHDO to ensure that the governing body or the organization is controlled by the community it serves. These requirements are designed to ensure that the CHDO is capable of decisions and actions that address the community's needs without undue influence from external agendas.

A. History of Serving the Community. The organization has a history of serving the community within which housing to be assisted with HOME funds is to be located, as evidenced by either documentation of at least one (1) year of experience in serving the community or for new organizations, documentation that its parent organization has at least one (1) year of experience serving the community.

B. Low Income Input. Input from the low-income community is not met solely by having low-income representation on the board. The CHDO must provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of affordable housing. The process must be described in writing and must be documented in the organization's by-law, resolutions, or

a written statement of operating procedures approved by the governing body. Each project undertaken by the CHDO should allow potential program beneficiaries to be involved and provide input on the entire project from project concept and site selection to property management. One way to accomplish this requirement is to develop a project advisory committee for each project or community where a HOME assisted project will be developed. Proof of input from the potential low-income program beneficiaries in all aspects of the project will be required for HOME project funding.

C. Clearly Defined Service Area. The organization must have a clearly defined geographic service area, which can be described and documented. CHDOs may serve individual neighborhoods or large areas. However, while organization may include the entire community in their service area (such as a city, town, village, county, or multi-county area), they may not include the entire state.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.7 Additional Considerations.

A. Needs. Current plans should be well grounded in an understanding of current housing conditions; housing needs, and need for supportive services. The organization should have an analysis of the local housing market and the housing needs of low-income households.

B. Relations. The organization should have a good reputation and a positive relationship with the community it services.

C. Local Government Relations. The CHDO should have a positive relationship with the local government(s) of the community(s) that it serves.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.8 Financial Management Requirements.

A. Conformance to Accountability Standards. The organization must conform to the financial accountability standards of 24 CFR 84.21, "Standards for Financial Management Systems", as evidenced by notarized statement by the board president or Chief Financial Officer (CFO), or a certification from a Certified Public Accountant (CPA), or a HUD approved audit summary.

B. No Individual Benefit. No part of a CHDO's net earnings (profits) may benefit any members, founders, contributors, or individuals. This requirement must also be evidenced in the organization's charter or articles of incorporation.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.9 Additional Considerations regarding Financial Management Requirements:

A. Audit. Audit information will be reviewed.

B. Budgeting. The organization should conduct annual budgeting of its operations and all activities and programs. It should track and report budget versus actual income and expenses.

C. Reporting. Financial reporting should be regular, current and sufficient for the board to forecast and monitor the financial status of the corporation.

D. Cash Flow Management. The organization should know its current cash position and maintain control over expenditures.
E. Internal Controls. The organization should have adequate internal controls to ensure separation of duties and safeguarding of corporate assets. There should be sufficient oversight of all financial activities.
F. Procurement/Conflict of Interest. The organization should have a conflict of interest policy governing board members, employees, and development activities, particularly in procurement of contract services and the award of housing units for occupancy.
G. Insurance. The organization should maintain adequate insurance, including liability, fidelity, bond workers compensation, property hazard and project. In regards to bonding provisions (surety bond), the organization shall obtain a minimum bonding of $75,000 to protect the interest of the organization and any entity, which shall award funds unto the organization. If funded, the CHDO is required to increase the surety bond to $150,000 for each principal.
H. Financial Stability. The current balance sheet and budget should indicate a sufficient, diversified and stable funding base to support essential operations.
I. Portfolio Financial Condition. If the organization has a portfolio of properties, they should be in stable physical and financial condition.
J. Liquidity. Whether the organization has liquid assets available to cover current expenses shall be considered, as well as whether the organization has funds available for predevelopment expenses or equity investments required for development.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.10 Capacity to Carry Out Activities. The organization must have demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by either experience of key staff that has completed similar projects to HOME funded activities or the organization should have contracts with consultants who have relevant housing experience to train key staff.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.11 Additional Considerations for Activities.
A. Portfolio. The organization's portfolio of projects and properties should evidence competent management and oversight.
B. Previous Performance. The organization should have exhibited competence with any previous CHDO activities.
C. Management Capacity. The organization's management should have the capacity and ability to manage additional development activities.
D. Procedures. There should be policies and procedures in place to govern development activities.
E. Project management. The organization should have procedures for monitoring the progress of a project and the capacity to monitor project-level cash flow and schedules.
F. Personnel. There should be staff that is assigned responsibilities for housing G. development and personnel policies and job descriptions should be clear.
G. Staff Skills. The strength of staff in the following areas shall be considered:
(i). Legal/financial aspects of housing development

(ii). Management of real estate development
(iii).Oversight of design & construction management
(iv).Marketing, intake
(v). Property management (if applicable)

H. Training. Staff should be encouraged to obtain training and develop skills.

I. Member involvement. The organization's membership should be active and in

J. Support of the organization's housing activities.

K. Use of consultants. To what extent the CHDO has access to and makes use of qualified development consultants shall be considered, as well as how these consultants interact with staff.

L. Funding access. The organization should have the ability to raise funds for the capital requirements of a project.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.12 MDA Reservations. MDA reserves the right to determine if the housing development experience and financial stability of the non-profit organization is adequate for certification and if the organization has the capacity to carry out HOME funded activities.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.13 Effective Period of CHDO Certification. In order to maintain a current state CHDO Certification, the CHDO must submit a complete application for funding through the MDA. The CHDO must be awarded grant funds. The certification period will be effective for the two (2) or three (3) year period of the contract. CHDOs will no longer be required to be recertified annually.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.14 The Consolidation Plan. Activities conducted by CHDOs must be consistent with the state's Consolidated Plan. The Consolidated Plan identifies housing and community development needs in the state's jurisdiction and provides long-term strategy for addressing those needs. The Consolidated Plan indicates the level of resources, which are allocated to each program. Each year the state must develop an Action Plan, which spells out which activities it will carry out and how much money will be spent in each area. The Consolidated Planning process is an opportunity for CHDOs to provide input to the state on how its funds are allocated.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.15 How to Apply for CHDO Certification.

A. Complete the CHDO Certification Application, including all requested documentation forms.

B. Submit one (1) original and one (1) copy of the entire application. The application should be bound with a binder clip, 3-ring binders or any other forms of binding.

C. The application may be mailed or hand delivered to the address below.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Part 4 Chapter 8: Emergency Shelter Grants Program

Rule 8.1 Program Overview. The Emergency Shelter Grants Program (ESG) is authorized by the Stewart B. McKinney Homeless Assistance Act of 1988 as Amended. Under the Emergency Shelter Grants Program, the Department of Housing and Urban Development (HUD) allocates funds by formula grant among eligible states and units of general local government. States and units of local government may use the ESG funds for renovation, rehabilitation or conversion of buildings for use as emergency shelters for the homeless, for the payment of operation and maintenance expenses, for the provision of essential services to homeless clients, and for homeless prevention activities. The program is designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as to prevent homelessness. The State of Mississippi proposes in the 2011 Emergency Shelter Grants Program to use the funds for operation and maintenance expenses. ESG funds will be distributed statewide to eligible local units of government and non-profit organizations that operate homeless shelters. Recaptured or De-obligated ESG funds may be used to supplement State Administration, to supplement existing projects which may require additional funds, to fund other eligible applicants, or to fund ESG eligible activities.

Source: 42 U.S.C. 11301

Rule 8.2 Program Objective. The ESG Program funds will be made available to address the following:

A. Shelter facility improvements (minor), operation and maintenance expenses
B. Equipment purchase is limited to $5,000.00 per unit

The use of ESG funds for the purchase of motor vehicles is prohibited.

Source: 42 U.S.C. 11301

Rule 8.3 Administration. The Governor designated the Mississippi Development Authority (MDA) as the agency responsible for administering ESG funds.

Source: 42 U.S.C. 11301

Rule 8.4 2011 Allocation. The 2011 ESG funds to be made available to the State of Mississippi will be published in the Federal Register. The One-Year Action Plan is based on an allocation of $2,002,150. This allocation is contingent upon the availability of funds to the State of Mississippi from the U. S. Department of Housing and Urban Development. The State will reserve less than five percent ($100,000) to assist in the administration of ESG funds. If requested, the State may make available administrative funds to grantees, not to exceed two percent of the grant requested.

Source: 42 U.S.C. 11301

Rule 8.5 Application Submission Date. The Application Submission date will be May 20, 2011, no later than 4:00 p.m. Applications were submitted to Community Services Division, 501 North West Street, Suite 5-A, Jackson, Mississippi. No applications were accepted after 4:00 p.m. MDA's time clock was the clock used for meeting the application submission deadline.

Source: 42 U.S.C. 11301

Rule 8.6 Eligible Applicants. Local units of government and non-profit organizations that operate existing homeless shelters are eligible to submit applications in the ESG Program. Non-profit agencies applying for ESG funds to carry out homeless assistance must obtain certification that the project is approved by the local unit of government, per Section 42 of the McKinney Act as amended. The City of Jackson, being an entitlement city, receives a direct allocation of ESG funds from HUD. Therefore, applications from non-profits in the City of Jackson will not be accepted for funding by the Community Services Division.

Source: 42 U.S.C. 11301

Rule 8.7 Match Requirements. Applicants must provide matching funds. Pursuant to 24 CFR Part 576 and 42 U.S.C. 11375 the ESG Program requires that ESG funds provided by HUD be matched with an equal amount of funds from other sources. The match amount may include the amount of funds from other sources, the value or fair rental value of any donated material or building (this source can only be utilized as match one time), the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services (at a rate of $5.00 per hour) contributed by volunteers to carry out the program of the recipient.

Source: 42 U.S.C. 11301

Rule 8.8 Grant Size. The maximum grant size is $75,000 and there is no minimum grant size. The State reserves the right to adjust the amount awarded, based on the amount of funds available.

Source: 42 U.S.C. 11301

Rule 8.9 Threshold Requirements.

A. Applications submitted by a local unit of government must include a copy of the Resolution authorizing submission of this application. The Resolution must be adopted by the local unit of government and must be signed and dated by the local unit of government's Chief Elected Official.

B. Applications submitted by non-profit organizations operating homeless shelters must include a copy of the authorizing resolution. The Resolution must be adopted by the non-profit organization's Board and must be signed and dated by the President of the Board.

C. Applications from non-profit organizations operating homeless shelters must also include a letter from the local unit of government approving the submission of the application. The letter must refer to the current ESG Program Year for which the application is being submitted and be signed by the Chief Elected Official.

D. To be eligible for 2011 funds, at least 80% of the 2010 project funds must be drawn in the IDIS system at the time an application is submitted. Any project funded with 2009 funds must be expended and a closeout package submitted to be eligible to apply for 2011 funds. And if funded, no funds may be drawn down on the new grant until the previously funded ESG project is closed out with CSD.

E. Match requirement must be documented in the application. The matching amount must be equal to the amount of ESG funds being requested. The match amount may include funds from other sources, the value or fair rental value of any donated material or building (this source can only be utilized as match one time), the value of any lease on a building, any salary paid to staff to carry out the program, and the value of the time and services (at a rate of $5.00 per hour) contributed by volunteers to carry out the program. If match includes funds from other sources or the value of the time and services contributed by volunteers to carry out the program, applicants must provide a copy of the Memorandum of Understanding or Agreement, or letter of support from the entities providing match. This documentation must identify the match type, match amount and must cover the grant Program Year time period for this application. If a facility is to be used as matching funds, a recent appraisal (less than two years) of the facility must be included. A current appraisal is also required if the local unit of government is submitting an application on behalf of an existing shelter. If the value of any lease on a building is to be used as matching funds, a copy of the lease information indicating the lease amount must be included. If donated materials are to be utilized as match, documentation from the donor indicating the type of materials and their value, and the date or proposed date of the donation must be submitted in the application.

F. Applicants must not have any unresolved audit or monitoring findings. In addition, if a community or organization has ANY CSD concerns that have not been resolved, then CSD may not review the application and the application may be disqualified from consideration in funding. This includes but is not limited to, failing to submit required reports, etc.

G. Contracts will be sent out after the award is made. Environmental clearance and special conditions clearance must be completed within four (4) months of the award date or the contract may be voided. No request for cash will be processed until the environmental clearance is granted. Waivers to the four (4) months rule may be granted on a case-by-case basis. The Division Director will be the only signature authority for waivers.

H. Any application that has been prepared by an application preparer who is involved in a pending debarment or suspension proceeding before a state or federal agent shall not be reviewed until such time as the debarment proceeding has been finally resolved. Additionally, no person who is involved in a suspension or debarment proceeding shall be allowed to administer a CDBG, ESG or HOME project until such time as the suspension or debarment process or finding is resolved.

I. The shelter board must be composed of at least one (1) homeless or former homeless person in a decision-making capacity.

Source: 42 U.S.C. 11301

Rule 8.10 Activities. Efforts will be made to maintain the operation of existing facilities that have a demonstrated history of efficient management, including services to the hard-to-reach homeless. The following information will be required in each funding request:

A. The nature and extent of homeless need for emergency shelter within the applicant's jurisdiction and the manner in which the applicant proposes to address the need;

B. Identification of agencies proposed to provide services through the program, any on-going services they provide to the homeless population, and a description of the agencies' relationship to the local government;

C. A description of proposed program activities and the budget request relating to: payment of maintenance, operation, insurance, utilities, and furnishings;

D. A description of the source(s), amount(s), and status of matching funds;

E. The extent to which the proposed activities will carry out the objectives established by the State;

F. The applicant's method and timeframe to implement the proposed activities; and

G. The applicant's certification that activities assisted through the program will comply with applicable regulations regarding historic properties and environmental considerations.

Source: 42 U.S.C. 11301

Rule 8.11 Distribution. The ESG funds will be distributed in accordance with the State's Consolidated Plan. The selection process is based on the possible award of 150 points on the ESG Application. The State intends to distribute ESG funds statewide to eligible applicants using a competitive application process. The State has designed specific criteria that will be used to rate the applications. Points will be assigned to each rating criterion based on the data provided in the application and consistent with the needs in the Consolidated Plan. Each application will stand on its own.

Source: 42 U.S.C. 11301

Rule 8.12 Applicant Obligations. Applicants may be contacted for clarification of the information presented in the application, but additional information that can affect the rating of the project cannot be submitted. Applicants with the highest scores will be funded until funds are exhausted. In case of a tie, the application that has the highest poverty rate for the entity's respective county will rate higher. The State will use the most recent rate. If a tie still exists, the unemployment rate for the entity's respective county will be used. The Community Services Division will also reject any applications if they are incomplete or do not provide desired services.

Source: 42 U.S.C. 11301

Rule 8.13 Site Visits. Site visits will be conducted to verify information submitted in the application for applicants receiving the highest ratings. A site visit does not imply or denote that an applicant will be funded. The State reserves the right to decrease the points awarded in any rating factor based on information gained during a site visit. The following Habitability Standards need to be met for applicant to receive funding:

A. Structure and Materials: The shelter building should be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents.

B. Access: The shelter must be accessible, and there should be a second means of exiting the facility in the case of emergency or fire.

C. Space and Security: Each resident should have adequate space and security for themselves and their belongings. Each resident must have an acceptable place to sleep.
D. Interior Air Quality: Each room or space within the shelter/facility must have a natural or mechanical means of ventilation. The interior air should be free of pollutants at a level that might threaten or harm the health of residents.
E. Water Supply: The shelter's water supply should be free of contamination.
F. Sanitary Facilities: Each resident should have access to sanitary facilities that are in proper operating condition. These facilities should be able to be used in privacy, and be adequate for personal cleanliness and the disposal of human waste.
G. Thermal-Environment: The shelter/facility must have any necessary heating/cooling H. facilities in proper operating condition.
H. Illumination and Electricity: The shelter/facility should have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There should be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
I. Food Preparation: Food preparation areas, if any, should contain suitable space and equipment to store, prepare and serve food in a safe and sanitary manner.
J. Sanitary Conditions: The shelter should be maintained in a sanitary condition.
K. Fire Safety-Sleeping Areas: There should be at least one working smoke detector in each occupied unit of the shelter facility. In addition, smoke detectors should be located near sleeping areas where possible. The fire alarm system should be designed for a hearing-impaired resident.
L. Fire Safety-Common Areas: All public areas of the shelter must have at least one working smoke detector.

Source: 42 U.S.C. 11301

Rule 8.14 Selection Process. The selection process is based on the awarding of points. Specific selection criteria will be used to rate applications. All applications will be rated and points assigned to each based on data provided in the application. Thus, it is important to provide complete and concise information for all questions.

Source: 42 U.S.C. 11301

Rule 8.15 Complete Questionnaire. In order to receive points, all questions must be answered completely. If the space provided to answer questions is not sufficient and the applicant needs additional space to answer a question in its entirety, the applicant must clearly reference the location of this additional information (i.e., see Attachment A, See By-laws, page 3). Applicants must be very specific when indicating additional space is needed to answer any questions.

Source: 42 U.S.C. 11301

Rule 8.16 Rating Factors. The rating factors and maximum points for the Application for the 2011 Emergency Shelter Grants Program Year are as follows:

Rating Factor	Points
Target Population	35
Program Design	20

Applicant Capacity	50
Documented Need	20
Community Coordination	25
Total Points Available	150

Source: 42 U.S.C. 11301

Rule 8.17 Explanation of Rating Factors.

A. Target Population: Applications that target two or more of the following populations will receive a maximum of 35 points. Applications that target only one population will be rated based on the scale below. In order to receive points, documentation that indicates the applicant's Target Population must be submitted. Applicants may submit marketing material, Articles of Incorporation, By-laws or some formal document containing the organization's Mission Statement or Purpose. (Applicants must also specifically identify which document contains the information and provide the page numbers). Local units of government must submit this information on behalf of the shelters they will be assisting with ESG funds.

Category	Points
Families	30
Victims of Domestic Violence	25
Veterans	20
Others	15
Children	10
Elderly	5

B. Program Design: Applicants will be rated on how their programs are designed to address the items listed below regarding their targeted population(s). In order to receive points the applicant must submit a formal copy of its Policies and Procedures document or Operational Manual describing these activities. Applicants must specifically identify which document contains the information and provide the page number.

(i). The hard to reach homeless (outreach activities)

(ii). The provision of supportive housing and ultimately permanent affordable housing

(iii). The utilization of clients in the construction, renovation, maintenance or operation of the shelter facility pursuant to 24 CFR 576 (b).

(iv). The inclusion of at least one current or former homeless person serving in a policy-making capacity pursuant to 24 CFR 576 (b).

Criteria	Points
Program design includes 4 Areas	20
Program design includes 3 Areas	5
Program design includes 2 Areas of less	0

C. Applicant Capacity:

(i). Applications will be awarded points based on the applicant's current ability to

operate homeless programs. Applicants will be rated on their personnel's ability to perform administrative and operational functions. In order to receive points the applicant must submit a formal copy of its Policies and Procedures document or Operational Manual that describes the activities listed below. (Applicants must also specifically identify which document contains the information and provide the page number).

(a) Client application process and procedures for intake
(b) Client tracking system (what type of statistics does your organization obtain and maintain on your clients, i.e., income information, educational level, employment status, health information, household size, marital status, gender, age, average length of stay, chronic homelessness, substance abuse history, etc)
(c) Client follow-up system (location and condition of client after leaving shelter)
(d) Financial accounting system
(e) Policy regarding the termination of assistance and grievance procedure pursuant to 24 CFR Part 576.56 (a) (3). Applicants must have in place a policy that governs the termination of assistance provided by ESG funded activities to participants who violate program requirements. The policy must provide the procedure that governs the termination and grievance process.

Criteria	Points
Organization has standard operating procedures for all 5 Areas	15
Organization has standard operating procedures for 4 Areas	5
Organization as standard operating procedures for less than 4 Areas	0

(ii). Applicant's ability to provide and/or coordinate supportive services for clients. In addition to providing overnight sleeping accommodations, applicants are encouraged to provide supportive services to clients either directly or through partnering with other entities. In order to receive points, marketing materials, Articles of Incorporation, By-laws containing Mission Statement or Purpose, Policies and Procedures document or Operational Manual, must be submitted for documentation. If services are provided by another entity, a copy of the Memorandum of Understanding or Agreement, or letter of support with these entities indicating the provision of services must be submitted. The Memorandum of Understanding or Agreement, or letter of support, must cover the grant Program Year period.

Criteria	Points
Job training related services are available	5
Child care related services are available	5
Counseling/Therapy services are available	5
Medical related services are available	5
Transportation services are available	5
Budgeting/Financial Management Training services are available	5

(iii). Applicant has previous experience administering a state or federal grant

program. In order to receive points, applicants must identify the grant received and submit a copy of the grant award letter. Applicants will receive points based on the following:

Criteria	Points
Applicant has experience administering a grant program	5
Applicant does not have experience administering a grant program	0

D. Documented Need: Applicant sufficiently documents need for services proposed in application. Please include the following information (information must be based on a January through December calendar year):

(i). Homeless statistical information for applicant's locale
(ii). The overall number of individuals served for last year (for any services provided)
(iii).The number of individuals from the applicant's specific target population served last year (for any services provided)
(iv).The number of nights of sleeping accommodation services provided last year
(v). The number of nights of sleeping accommodation services provided last year for individuals in the applicant's target population
(vi).The average length of stay of clients last year
(vii).The number of other shelters in applicant's locale
(viii).The number of other shelters in applicant's locale that serve the same target population as the applicant
(ix). Information regarding economic conditions in the applicant's locale
(x). Information regarding the levels of entitlement assistance in the applicant's locale

The above listed items must be addressed in the Documented Need Narrative for points to be awarded. Applicants may certainly include any additional information that they deem necessary.

Criteria	Points
Applicant clearly identifies need for proposed services	20
Applicant does not clearly identify need for proposed services	0

E. Community Coordination: Applicant will provide additional needed services for their clients from resources in the community. To receive points, applicants must provide a copy of the Memorandum of Understanding or Agreement, or letter of support with each activity indicating coordination and the provision of services. The Memorandum of Understanding of Agreement, or letter of support, must cover the grant Program Year period.

Criteria	Points
Applicant has 4 or more community resources	25
Applicant has 3 community resources	15
Applicant has 2 community resources	5
Applicant has less than 2 community resources	0

Source: 42 U.S.C. 11301

Rule 8.18 Review Process. The ESG Application Review process will consist of the following: first level review, second level review, and supervisory sign off. This ensures a fair and competitive process.

Source: 42 U.S.C. 11301

Rule 8.19 Federal Requirements. All recipients will be required to comply with certain federal and state requirements. The following briefly describes major requirements that may apply.

A. The requirements of OMB Circular No. A-87, *Cost Principles for State and Local Governments*, which addresses allowable cost shall apply to State recipients or any governmental sub recipient receiving ESG funds

B. Non-profit organizations must follow the requirements of:

(i). OMB Circular No. A-122, Cost Principles for Non-Profit Organizations

(ii). 24 CFR Part 84, Grants and Agreements with Institutions of Higher Education, Hospital, and other Non-Profit Organizations

(iii). 24 CFR Part 84.21(d), Bonding and Insurance

(iv). 24 CFR Part 84.21(a), Standards for Financial Management Systems

(v). 24 CFR Part 84.51, Monitoring and Reporting Program Performance, Paragraph 2

(vi). 24 CFR Part 84.40-84.50, Procurement Standards

(vii). 24 CFR Part 84 or 84, Conflict of Interest

C. Recipients are responsible for audit costs. Audits must be conducted in accordance with:

(i). 24 CFR Part 44, Non-Federal Governmental Audit Requirements, and;

(ii). OMB Circular A-133, Audits of Institutions of Higher Education and other Non-Profit institutions.

D. Local units of government must follow the requirements for procurement of:

(i). MDA (CSD) Policy Statement #94-002

(ii). 24 CFR Part 85,

(iii). State of Mississippi Procurement laws, or

(iv). Mississippi Development Authority requirements, whichever one is more stringent.

E. All contracts for ESG funds are subject to audit in accordance with OMB Circular A-133.

F. ESG funds from each federal fiscal year (i.e., the allocation and any reallocated funds from the particular federal fiscal year appropriated) will be closed out when all the requirements of 24 CFR Part 576.85, Closeouts, have been met.

G. Each applicant must establish and maintain sufficient records to enable the State to determine whether the applicant has met the requirements of 24 CFR Part 576.87, Recordkeeping.

H. Applicants must comply with the requirements of 24 CFR Part 576.79, Conflict of Interest.

I. The federal requirements of 24 CFR Part 576.51, Displacement, Relocation, and Acquisition, concerning relocation must be followed at all times when a unit to be rehabilitated is occupied prior to the beginning of construction to rehabilitate the unit.

Source: 42 U.S.C. 11301

Part 4 Chapter 9: Community Development Block Grant Programs

Rule 9.1 National Objectives. The State Community Development Block Grant (CDBG) program was established to aid in the development of viable communities that provide their residents with suitable living environment and economic opportunities. Mississippi's State CDBG program is designed to be consistent with this primary objective by providing funds for local projects with activities that meet one of the following national objectives of the Community Development Act of 1974, as amended:

A. Benefits to Low/Moderate Income Persons;
B. Give maximum feasible priority to activities that will benefit low- and moderate-income persons;
C. Slum or blight;
D. Aid in the prevention or elimination of slum or blight;
E. Urgent Needs
F. Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs.

Source: 24 CFR 570.480-497

Rule 9.2 State Objectives. The State has designed the program to be consistent with national objectives and to address economic and community development needs of the citizens of Mississippi. Several state objectives have been established to meet this purpose:

A. Increase local capacity to deliver resources
B. Streamline procedures for implementing grants
C. Encourage early completion of ongoing grants
D. Encourage MBE/WBE and Section 3 participation in the program
E. Assist non-entitlement units of government increase business and employment opportunities
F. Assist non-entitlement units of government improve the availability and adequacy of basic community facilities
G. Assist non-entitlement units of government improve the availability and adequacy of community service facilities and self help activities
H. Ensure adherence to all applicable federal and state regulations by all parties involved in projects funded with these funds

Source: 24 CFR 570.480-497

Rule 9.3 Adjustments. The State reserves the right to make adjustments to the amount designated for any program category based on the demand created by the applications. The CDBG Program allows for one percent of the yearly allocation to be used by the State for technical assistance. However, MDA intends to use the full amount allowed by HUD regulations as State Administration. These funds will be used in accordance with HUD CPD Notice 99–09.

Source: 24 CFR 570.480-497

Rule 9.4 Transfer of Funds. The State reserves the right to transfer any unobligated funds into any category to help meet the timely distribution requirement. If HUD makes a special allocation to the State, the State reserves the right to fund any current application from the special allocation. Should the State's HUD allocation be adjusted, the State will adjust program categories.

Source: 24 CFR 570.480-497

Rule 9.5 Maximum Grant Size. The State reserves the right to adjust maximum grant size, local match requirements, job creation goals, cost per jobs, and certain threshold requirements in order to assist local communities with projects on a case-by-case basis due to a State and/or Federal natural disaster declaration.

Source: 24 CFR 570.480-497

Rule 9.6 Application Costs. Application preparation cost may be awarded to funded applications as a pre-award cost.

Source: 24 CFR 570.480-497

Rule 9.7 Receipt of Program Income. The State will receive program income from prior CDBG awards. The State requires communities to return program income generated to the State; however, MDA may permit the local units of government to retain program income to continue the activity from which such income is derived on a case-by-case basis.

Source: 24 CFR 570.480-497

Rule 9.8 Program Income Fund. Program income returned to the State will be placed in a Program Income Fund and distributed for eligible CDBG activities as approved by MDA. Up to 2% of these funds may be used for state administrative purposes.

Source: 24 CFR 570.480-497

Rule 9.9 Rules, Policies, and Other Requirements. All rules, policies, and other requirements of the State's CDBG program are applicable to the program income funds received and distributed by the State.

Source: 24 CFR 570.480-497

Rule 9.10 Recaptured Funds. The State will recapture funds previously awarded to a CDBG recipient for reasons such as, failure to satisfy a national policy objective, failure to comply with contractual conditions, or if awarded funds are not expended prior to the expiration of the grant contract. The State may allocate any recaptured funds into any program category. The State

reserves the right to substitute recaptured funds for previously committed funds from any year in order to hasten completion of a program year. Any requests for supplemental funds will be considered on a case-by-case basis with funds granted only in those instances where the State can readily determine that additional funding is justified. Grant ceilings are not applicable when considering the awarding of these funds.

Source: 24 CFR 570.480-497

Rule 9.11 Eligible Applicants. All cities and counties, except the entitlement cities of Biloxi, Gulfport, Hattiesburg, Jackson, Moss Point, and Pascagoula are eligible applicants for funding under Mississippi's CDBG program.

Source: 24 CFR 570.480-497

Rule 9.12 General Criteria.

A. Applicants may be contacted for clarification of information presented in the application after submission, but additional information that can affect the rating of the project cannot be submitted.

B. A single activity should have a contiguous group of beneficiaries. Multiple activities may be considered on a case-by-case basis.

C. Water projects that have fire protection as the primary purpose will be classified as a fire protection project unless there are major problems with the water system.

D. If matching funds are being sought through another program (ARC, DEQ, RDA, EDA, CAP, etc.), applicants are required to submit evidence of the matching application.

E. The State will review and rate all applications, but no award will be made (if F. applicable) until the final commitment and/or approval of matching funds. Applicants will have until _____ to secure final commitment and/or approval of matching funds. If by that time final commitment and/or approval is not in place, the State will remove the application from funding consideration.

F. Swimming pools will not be eligible for funding under the Self-Help category.

G. CDBG funds may not be used for general operating and maintenance expenses. The general rule is that any expense associated with repairing, operating, or maintaining public facilities, improvements and services is ineligible. Examples of operating and maintenance expenses that are generally ineligible include: maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, center for persons with disabilities, parking and other public facilities and improvements. Other examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of grass in city or county parks, and the replacement of street light bulbs. This is taken from the State Community Development Block Grant Program's Guide to National Objectives and Eligible Activities for State CDBG Program pages 2-112 and 2-113.

Source: 24 CFR 570.480-497

Rule 9.13 Surveys. Project area and town wide surveys will be accepted. If using a survey to determine the low- and moderate-income benefit, it must have been conducted after **April 1, 2008.** Applicants using surveys to indicate population and income information must use the State approved Grant Survey Form provided by MDA and must include the signed Grant Survey Summary and Disclosure Form in the application. No other survey forms will be allowed unless the content is approved by MDA prior to the survey being taken. Surveys that do not meet the 80% response rate will not be accepted. Surveys must contain an adult household member signature or be initialed by the adult household member in order to be counted. Surveys will not be allowed/counted if they are not signed/initialed by the adult household member.
If surveys were used for determining low- and moderate-income benefit, the application preparer is responsible for the surveys being correlated to a legible map and in proper order.

Source: 24 CFR 570.480-497

Rule 9.14 Maps. A general project area map, showing the general location of the proposed project, with a more detailed insert (detailing project location), is required to be submitted with the application. Other map requirements are discussed in the application. The survey map must accompany the application.

Source: 24 CFR 570.480-497

Rule 9.15 Purpose. The purpose of the Emergency category is to provide funding for any eligible CDBG activity necessary to address a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

Source: 24 CFR 570.480-497

Rule 9.16 Available Funds/Grant Size. If funds are available from any available program funds then awards will be made for Emergency projects. The maximum grant size shall be $100,000. The maximum amount of Administrative funds for the Emergency Category shall be $1,500 including Application Preparation. Application Preparation fee will be limited to $500 per project.

Source: 24 CFR 570.480-497

Rule 9.17 Submission Dates. The State will accept FY 2011 Emergency Public Facilities applications beginning August 2, 2011.

Source: 24 CFR 570.480-497

Rule 9.18 Threshold Requirements. Applicants must have no unresolved audit or monitoring findings. In addition, if a community has ANY CSD concerns that have not been resolved, then CSD may not review the application and the application may be disqualified from consideration in funding. This includes but is not limited to delinquent loan payments, failing to submit

required reports, etc. Applications that are incomplete will not be reviewed and will be placed on the bottom of the list of request until such time as all information is submitted. Applicants that have an ongoing CDBG grant over three years old must get permission from the State to apply for an FY 2011 Emergency grant. In addition, applicants who have an ongoing Emergency Public Facilities or Urgent Needs grant will not be eligible to submit an additional Emergency CDBG Request.

Source: 24 CFR 570.480-497

Rule 9.19 Application Process. Applicants must first contact the State regarding the submittal of an Emergency application. The initial contact should be by letter or fax and should address the following:

A. The problem (or threat) and the proposed solution

B. A cost estimate and documentation that reflects efforts to secure other funds was not successful

C. How the situation poses an imminent threat to the health and welfare of affected residents, and

D. Community's budget for previous two years.

If the condition meets the Emergency criteria and the applicant finds it preferable, pre-agreement costs can be negotiated with the local unit of government. No application may be submitted without prior approval. Applications will be considered in the order received until all funding is exhausted. Benefit to low- and moderate-income persons is the preferred national objective; however, it is possible to receive funding under the Urgent Needs national objective. Projects receiving Emergency funds must be closed out within twelve months of award receipt, or funds will be recaptured**.** Based on MDA's evaluation of the request, a letter may be issued inviting a CDBG Emergency application. The letter will state the amount of CDBG funds that may be requested. The local unit of government will be given 45 days to submit the application.

Source: 24 CFR 570.480-497

Rule 9.20 Selection Process. Requirements for funding consideration include the following:

A. The problem (or threat) must be an eligible community development need that has a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community.

B. The situation, if not addressed, must be a permanent threat to public health or welfare.

C. The application must address other financial resources not being available to meet such needs, including a copy of the applicant's latest budget.

D. The situation addressed by the applicant must be unanticipated and beyond the control of the local government.

E. The application must include documentation on the beneficiaries, including low- and moderate-income persons.

F. The application must include documentation that the emergency occurred or was discovered within the last 18 months.

Source: 24 CFR 570.480-497

Part 4 Chapter 10: Public Facilities—Community Self-Help Program

Rule 10.1 Purpose. The Community Self-Help program is an effort to help communities address needs such as water, wastewater, downtown improvements, recreation (swimming pools and general maintenance are not eligible) and other CDBG eligible activities. The Community Self-Help program is a resource for small communities to meet local needs with less money. Self-Help is the development and use of a community's own resources (human, material and financial) to solve problems for less cost. This approach begins with the answer to a key question, "What can we afford?" and then initiates a local focus of control based on the applicant's design and plans for solving the problem. Self-Help refers to the collective effort of people working together to create or improve a service or facility (for example, a water system) that they will use in common, and which is not exclusively owned by any one person or household. Self-Help and volunteerism are not synonymous. Self-Help includes the use of volunteers as one technique among many that can reduce the cost of a needed community improvement. Self-Help is an exercise in communities developing and building their own capacity to come together to solve problems in a collective way.

Source: 24 CFR 570.480-497

Rule 10.2 Available Funds/Grant Size. A total of up to $400,000 has been set aside for the Community Self-Help program. The maximum grant size is $100,000. The maximum amount of Administrative funds for the Self-Help Category shall be $5,000 including Application Preparation. Application Preparation fee will be limited to $1,500 per project.

Source: 24 CFR 570.480-497

Rule 10.3 Submission Date. Assessment forms will be accepted beginning August 2, 2011. The Community, Local Government, and Financial Information Assessment forms must be completed and sent to MDA. After staff review, MDA will make a decision whether or not to invite an application. Only invited applications will be considered due to the limited amount of funds available. The letter inviting an application will state the amount of CDBG funds that may be requested. The local unit of government will be given 45 days to submit the application.

Source: 24 CFR 570.480-497

Rule 10.4 Threshold Requirements. Applicants must have no open Public Facilities, Emergency/Urgent Needs, Planning or Self-Help grants and have no unresolved audit or monitoring findings. In addition, if a community has ANY CSD concerns that have not been resolved, then CSD may not review the applications and the application may be disqualified from considerations in funding. This includes but is not limited to delinquent loan payments, failing to submit required reports, etc. All projects must benefit a minimum of 51% low and-moderate income persons and show a 30% cost savings. Swimming pools will not be eligible for funding under the Self-Help category. This includes construction or rehabilitation of swimming pools.

Source: 24 CFR 570.480-497

Rule 10.5 Selection Process. Applications will be evaluated on the basis of feasibility, readiness, capacity and how the project fits into the overall improvement efforts of the community.

Source: 24 CFR 570.480-497

Part 4 Chapter 11: Economic Development—Public Improvements

Rule 11.1 Purpose. The purpose of the CDBG Economic Development Public Improvements category is to assist units of local government in the funding of eligible infrastructure improvements in the support of better paying private sector jobs; Projects having retained jobs and those creating public sector jobs shall be reviewed on a case-by-case basis and if funds are limited, these type projects will have a lower priority for funding. The use of these funds is directly associated with the creation or retention of jobs of which at least 51% must be low- and moderate-income. Each project will be reviewed for eligibility on a case-by-case basis.

Source: 24 CFR 570.480-497

Rule 11.2 Available Funds/Grant Size. The State will set aside $12,600,000 to provide funding for eligible CDBG economic development activities. A maximum grant size of $650,000 and a minimum of $100,000 will apply to all applicants. Projects associated with creating 250 or more jobs may be eligible to receive a maximum of $1,000,000. There will be no increase of grant size for joint applicants. Upon receipt of written justification, MDA reserves the right to adjust the maximum grant size, local match requirement, job creation goals, and cost per job with economic development projects on a case-by-case basis. The maximum amount of Administrative funds for the Economic Development grant category shall be $40,000 including application preparation. Application preparation fee will be limited to $5,000 per project.

Source: 24 CFR 570.480-497

Rule 11.3 Submission Date. CSD will accept proposals throughout the year**.**

Source: 24 CFR 570.480-497

Rule 11.4 Threshold Requirements

A. Applicants must have no unresolved audit or monitoring findings. In addition, if a community has ANY CSD concerns that have not been resolved, then CSD may not review the application and the application may be disqualified from consideration in funding. This includes but is not limited to delinquent loan payments, failing to submit required reports, etc.

B. The proposed activities must be associated with creating and/or retaining 20 or more jobs. However, Small Governments may be considered for funding with a minimum of 15 jobs. Projects having retained jobs and those creating public sector jobs shall be reviewed on a case-by-case basis and if funds are limited these type projects will have a lower priority for funding. MDA may consider proposals that are based on full time job equivalents. One full-time job is equivalent of a minimum of 1,820 annual work hours.

C. CDBG assistance per job must be $20,000 or less.
D. The applicant must have a Memorandum of Agreement executed with the business to create and/or retain the jobs and to make the investment as described in the application. The highest official within both the local government and the benefiting business/industry must sign this agreement.
E. CDBG participation is limited to a maximum of 50% of the total project cost.
F. Any eligible applicant for 2011 Economic Development funds that has an Economic Development grant over three years old must receive special permission from MDA to apply.
G. Applicants from Tier 1 or 2 counties must provide a minimum of 10% local cash match towards the eligible infrastructure improvements. Applicants from a Tier 3 county must make a best effort to provide a 10% local cash match. Federal or state loans may be used to meet this requirement. In-kind services may also be used to meet this requirement.

Source: 24 CFR 570.480-497

Rule 11.5 Application Process. Based on MDA's project review process, the local unit of government seeking Economic Development funding must first submit a project proposal. Based upon an initial review of the proposal, MDA may require a meeting with relevant parties to discuss the project. Then, MDA may issue a letter inviting a CDBG Economic Development application. The local unit of government will be given 90 days to submit the application.

Source: 24 CFR 570.480-497

Rule 11.6 Selection Process. Applications will be evaluated based on the following:
A. Eligibility and project readiness
B. Local financial commitment
C. Business investment
D. Wages paid and benefits offered
E. Company's financial condition
Applications that were not funded in Program Year 2010 because no funds were available may be considered for funding under the Program Year 2011 guidelines.

Source: 24 CFR 570.480-497

Rule 11.7 Performance Measures. Beginning October 2006, HUD required that all recipients provide additional information to better measure the achievements of Federal programs. By law, all Federal agencies are required to measure outcomes of their programs and these measurements will be directly linked to funding decisions. The following information includes an objective, possible outcomes, and possible indicators for each program category. This information will be used to assist MDA in reporting performance outcome measures to HUD.

Source: 24 CFR 570.480-497

Rule 11.8 Job Category Definitions.
A. Officials and Managers: Occupations requiring administrative personnel who set

broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials, executives, middle management, plant managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, and kindred workers.

B. Professional: Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dieticians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations workers, physical scientists, physicians, social scientists, teachers, and kindred workers.

C. Technicians: Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post high school education such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes computer programmers and operators, drafters, engineering aides, junior engineers, mathematic aides, licensed practical or vocational nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical science) and kindred workers.

D. Sales: Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, sales-workers, demonstrators, retail sales workers, and sales clerks, grocery clerks and cashiers, checkers, and kindred workers.

E. Office and Clerical: Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists, and secretaries, telegraph and telephone operators, and kindred workers.

F. Craft Workers (skilled): Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators (who are not members of management), mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, and kindred workers.

G. Operatives (semi-skilled): Workers who operate machines or other equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dressmakers and sewers (except factory), dryers, furnace workers, heaters (metal), laundry and dry cleaning, operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, boiler tenders, truck and

tractor drivers, weavers (textile), welders and flame cutters, and kindred workers.

H. Laborers (unskilled): Workers in manual occupations which generally require no special training to perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, gardeners (except farm) and ground keepers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

I. Service Workers: Workers in both protective and nonprotective service occupations. Includes: attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, char-workers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection guards, doorkeepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, and kindred workers.

Source: 24 CFR 570.480-497

Title 6: Economic Development

Part 5: Policies, Procedures and Organization

Part 5 Chapter 1: Debarment and Suspension Policy

Rule 1.1 Policy. In order to protect the public trust and interest imposed upon the Mississippi Development Authority (MDA), it is the policy of the agency to conduct business only with responsible persons. However, when it appears that a subgrantee's and/or its agent, agents, and/or any entity's conduct, as determined by the agency, creates a reasonable belief that a particular act or omission, which would be covered by this policy, has occurred, MDA shall implement discretionary actions known as debarment and suspension. Debarment and suspension are serious actions which shall be used only in the public interest and for the agency and the State Of Mississippi's protection and not for purposes of punishment. MDA may impose debarment or suspensions for causes and in accordance with the procedures set forth herein.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.2 Coverage. This policy shall apply to all subgrantees, and/or its agent, agents, and/or anyone or any entity acting on behalf of a subgrantee, who have participated in, or are presently participating in MDA programs. For purposes of these regulations, transactions will be subdivided into (1) primary transactions, i.e., any transaction between MDA and the subgrantee, and/or its agent, agents, and/or anyone/any entity acting on behalf of a subgrantee, regardless of type, or (2) lower tier transactions, i.e., transactions between subgrantee, and/or its agent, agents, and/or anyone or any entity acting on behalf of a subgrantee, and another, regardless of type, under a primary transaction. When more than one agency has an interest in the proposed debarment or suspension of a person or entity, consideration shall be given to designating one agency as the lead agency for making the decision.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.3 Effect of Action. Except to the extent prohibited by law, subgrantee's, and/or its agent, agents and/or anyone , or any entity who are debarred or suspended shall be excluded from primary transactions and lower tier transactions for the period of their debarment or suspension.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.4 Debarment. The MDA Executive Director, as the debarring official, or his designee, after consultation with the appropriate Division Director, may debar a subgrantee, and/or its agent, agents, and/or anyone or any entity acting on subgrantee's behalf for any causes noted herein. However, the existence of a cause for debarment does not necessarily require that the subject be debarred. The seriousness of the person's acts or omissions and any mitigating factors shall be considered in making any debarment

decision. Debarment means, for the purpose of the MDA, an action taken by an agency in accordance with these rules to exclude the subject from participating in a covered transaction.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.5 Causes for Debarment. Debarment may be imposed for:

A. Conviction of or civil judgment for:

(i). Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(ii). Violation of Federal or State antitrust statutes, including those prescribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

(iii). Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or

(iv). Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a person.

B. Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as:

(i). A willful failure to perform in accordance with the terms of two or more public agreements or transactions;

(ii). A history of failure to perform or unsatisfactory performance of two or more public agreements or transactions;

(iii). A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction; or

(iv). Any other cause of so serious or compelling a nature that it affects the present responsibility of a person, entity or the operation and/or integrity of a program.

C. Any of the following causes:

A procurement or nonprocurement debarment taken by any Federal agency pursuant to 48 CFR Subpart 9.4.

(i). Knowingly doing business with a debarred, suspended, ineligible or voluntarily excluded person, in connection with a transaction, except as expressly permitted by the agency in writing; or

(ii). Any other cause of so serious or compelling a nature that it affects the present responsibility of a person or entity.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.6 Procedures. MDA shall process debarment actions as informally as practicable, consistent with the principles of fundamental fairness using the procedures in Rules 1.7 through 1.11.

A. Information concerning the existence of a cause for debarment from any

source shall be promptly reported, investigated, and referred, when appropriate, to the debarring official for consideration. After consideration, the debarring official, MDA's Executive Director, or his designee, may issue a notice of proposed debarment.

B. MDA shall establish an administrative file upon receipt of any information concerning a possible cause for debarment or suspension. This administrative file is the property of MDA and not subject to review by the public.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.7 Notice of Proposed Debarment. A debarment proceeding shall be initiated by written notice, through certified mail, to the respondent advising:

A. That debarment is being considered;

B. Of the reasons for the proposed debarment in terms sufficient to put the respondent on notice of the conduct or transaction(s) upon which it is based;

C. Of the causes relied upon under Rule 1.5 "Causes for Debarment" above;

D. Of the opportunity and procedures to contest the proposed debarment and a final adverse decision; and

E. Of the potential effect of a debarment

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.8 Opportunity to Contest Proposed Debarment. Within 30 days after receipt of the notice of proposed debarment, the respondent may submit, personally or through a legal representative, in writing, information and arguments in opposition to the proposed debarment.

A. Agency Proceeding As to Disputed Material Facts

(i). In actions not based upon a conviction or civil judgment, if the debarring official finds the respondent's submission in opposition raises a genuine dispute over facts material to the proposed debarment, respondent(s) shall be afforded an opportunity to appear before the debarring official with a representative, submit written documentary evidence in the form of paper documents and sworn affidavits. MDA will accept sworn affidavits from respondent's witnesses.

(ii). A transcribed record of the Agency Proceeding may be made by the respondent, at their own cost, provided they have received the prior written approval of the debarring official.

(iii). Technical rules of evidence shall be relaxed during Agency Proceedings.

(iv). Respondent must obtain prior written approval of the debarment official regarding the use of a court reporter at least two weeks prior to the Agency Proceeding.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.9 Debarring Official's Decision

A. No Agency Proceeding Necessary. In actions based upon a conviction or civil judgment, or in which there is no genuine dispute over material facts, the debarring official shall make a decision on the basis of all the information in the administrative record, including any submissions made by the respondent. The decision shall be made within 30 days after receipt of any information and argument submitted by the respondent, unless the debarring official extends this period for good cause.

B. Agency Proceeding Necessary

(i). In actions in which an Agency Proceeding is necessary to determine disputed material facts, written findings of fact shall be prepared. The debarring official shall base the decision on the facts as found, together with any information and argument submitted by the respondent and any other information in the administrative record.

(ii). The debarring official's decision shall be made after the conclusion of the Agency Proceeding and careful consideration of all information provided by the parties involved with respect to disputed facts.

C. Standard of Proof

(i). In any debarment action, the cause for debarment must be established by a preponderance of the evidence. Where the proposed debarment is based upon a conviction or a civil judgment, the standard shall be deemed to have been met.

(ii). Preponderance of the evidence is proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(iii). The burden of proof is on the agency proposing debarment.

D. Notice of Debarring Official's Final Decision

(i). If the debarring official decides to impose debarment,

(a). the respondent shall be given prompt written notice by certified mail:

(b). Referring to the notice of proposed debarment;

(c). Specifying the reasons for debarment;

(d). Stating the period of debarment, including effective dates; and,

(e). Advising that the debarment is effective for covered transactions throughout the agency.

(ii). If the debarring official decides not to impose debarment, the respondent shall be given prompt written notice by certified mail of that decision. A decision not to impose debarment shall be without prejudice to a subsequent imposition of debarment by any other agency.

(iii). The decision of the debarring official is final.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.10 Period of Debarment.

A. Debarment shall be for a period of time commensurate with the seriousness of the cause(s). If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

B. The debarring official may extend an existing debarment for an additional period, if that official determines that an extension is necessary to protect the public interest.

C. Debarment for causes set forth in Rule 1.5(a)(4) through Rule 1.5(c)(3) generally should not exceed three (3) years. Where circumstances warrant, a longer period of debarment may be imposed.

D. Debarment for cause set forth in Rule 1.5(a)(1), (2) and (3) generally shall not exceed seven (7) years.

E. The debarring official may extend an existing debarment for an additional period, if that official determines that an extension is necessary to protect the public interest. However, a debarment may not be extended solely on the basis of the facts and the circumstances upon which the initial debarment action was based. If debarment for an additional period is determined to be necessary, the procedures set forth at Rule 5.7 "Notice of Proposed Debarment" shall be followed to extend the debarment.

F. The respondent may request the debarring official reverse the debarment decision or to reduce the period or scope of debarment. Such a request shall be in writing and supported by documentation. The debarring official may grant such a request for reasons including, but not limited to:

(i). Newly discovered material evidence;

(ii). Reversal of the conviction or civil judgment upon which the debarment was based;

(iii). Bonafide change in ownership or management;

(iv). Elimination of other causes for which the debarment was imposed; Or,

(v). Other reasons the debarring official deems appropriate.

G. Where respondent's request to reduce the period or scope of debarment is based on reasons set forth at Rule 1.10(f) such request may not be submitted earlier than six (6) months after the final decision to debar. In no event may more than one such request be submitted within any 18-month period.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.11 Scope of Debarment.

A. Debarment of a person under these regulations constitutes debarment of all its divisions and other organizational elements from all covered transactions, unless the debarment decision is limited by its terms to one or more specifically identified individuals, divisions or other organizational elements or to specific types of transactions.

B. The debarment action may include any affiliate of the participant that is specifically named and given notice of the proposed debarment and an opportunity to respond as set forth at Rule 1.7.

C. The fraudulent, criminal or other seriously improper conduct of one participant in a joint venture, grant pursuant to a joint application, or similar arrangement may be imputed to other participants if the conduct occurred for or on behalf of the joint venture, grant pursuant to a joint application, or similar arrangement or with the knowledge, approval, or acquiescence of these participants. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

D. Persons debarred will be placed on MDA's Debarment List.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.12 Suspension. Suspension is a serious action to be imposed only when there exists adequate evidence of one or more of the causes set out in Rule 1.5 "Causes For Debarment", and immediate action is necessary to protect the public interest. For purposes of this agency, suspension is an action taken by MDA in accordance with the following regulations that immediately excludes a subgrantee and/or its agent, agents, and/or anyone/any entity from participating in transactions for a temporary period, pending investigation and such legal action, debarment, or other proceedings as may ensue.

A. In assessing the adequacy of the evidence, the agency should consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment should include an examination of basic documents such as grants, cooperative agreements, loan authorizations and contracts.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.13 Causes for Suspension. Suspension may be imposed upon adequate evidence to suspect the commission of a debarment offense as listed in Rule 1.5 "Causes for Debarment". Indictment, conviction of a criminal misdemeanor or felony, or a civil judgment in a matter which has a direct bearing upon a person persistent responsibility and capacity to perform the contract or service in question, alone shall constitute adequate evidence for purposes of suspension actions.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.14 Procedures For Investigation and Referral. Information concerning the existence of a cause for suspension from any source shall be promptly reported, investigated, and referred, when appropriate, to the suspending official for consideration. After consideration, the suspending official may issue a Notice of Suspension. MDA shall process suspension actions as informally as practicable, consistent with principles of fundamental fairness, using the procedures in Rule 1.15

"Notice of Suspension".

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.15 Notice of Suspension. When a respondent is suspended, written notice, by certified mail, shall be immediately given:

A. That suspension has been imposed;

B. That the suspension is based on an indictment, conviction, or other adequate evidence that the respondent has committed irregularities seriously reflecting on the propriety of further agency dealings with the respondent;

C. Describing any such irregularities in terms sufficient to put the respondent on notice without disclosing the agency's evidence;

D. Of the cause(s) relied upon as set forth in Rule 1.5 "Causes For Debarment;

E. Of the effect of the suspension.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.16 Suspending Official's Decision. The suspending official may modify or terminate the suspension for reasons as set forth at Rule 1.10(f) or may leave it in force. However, a decision to modify or terminate the suspension shall be without prejudice, to the subsequent imposition of debarment.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.17 Period of Suspension. Suspension shall be for a temporary period pending the completion of an investigation or ensuing legal action, or debarment. If legal, administrative or debarment proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated, unless the Executive Director determines that this time should be extended. The suspension may be extended for six (6) months. In no event may a suspension extend beyond 18 months, unless debarment proceedings have been initiated during that period.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.18 Scope of Suspension. The scope of a suspension is the same as the scope of a debarment (see Rule 1.11), except that the procedures of Rule 1.13 through Rule 1.17 shall be used in imposing a suspension.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.19 Settlement and Voluntary Exclusion. When it is in the best interest of the agency, MDA may, at any time, settle a debarment or suspension action. If a participant and MDA agree to a voluntary exclusion of the participant, such voluntary exclusion shall be entered on the Debarment List.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Part 5 Chapter 2: Rule-Making Oral Proceedings

Rule 2.1 Application of Chapter. This chapter applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the pursuant to the Administrative Procedures Act.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 2.2 Request for Oral Proceeding. When a political subdivision, an agency, or a citizen requests an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.

A. Each request must be submitted on 8-1/2" x 11" white paper.
B. The request may be in the form of a letter addressed to the MDA.
C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 2.3 Notice of Oral Proceeding. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The agency providing the notice shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Agency Head, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 2.4 Public Participation Guidelines. Public participation shall be permitted at oral proceedings in accordance with the following:

A. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
B. Persons wishing to make oral arguments at such a proceeding may notify the MDA at least three business days prior to the proceeding and indicate the general subject of their arguments. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the MDA prior to the proceeding.
C. At the proceeding, those who participate shall indicate their names and addresses, indentify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
D. The presiding officer may place time limitations on individual comments when necessary to assure the orderly and expeditious conduct of the oral proceeding.
E. Persons making arguments are encouraged to avoid restating matters that have

already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.

G. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 2.5 Submissions and Records. Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the MDA, part of the rulemaking record, and are subject to the MDA's public records request procedure. The MDA may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Part 5 Chapter 3: Declaratory Opinions

Rule 3.1 Model Rules. This chapter consists of model rules addressing the public's request for declaratory opinions and the MDA's disposition of requests for declaratory opinions.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.2 Application of Chapter. This chapter sets forth the MDA's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the MDA's procedures regarding the disposition of requests as required by Mississippi Code § 25-43-2.103.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.3 Scope of Declaratory Opinions. The MDA will issue declaratory opinions regarding the applicability to specified facts of:

A. a statute administered or enforceable by the MDA,
B. a rule promulgated by the MDA, or
C. an order issued by the MDA.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.4 Scope of Declaratory Opinion Request. A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.5 How to Submit Requests. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request.

A. Each request must be submitted on 8-1/2" x 11" white paper.

B. The request may be in the form of a letter addressed to the MDA.

C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).

D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

E. Each request must clearly state that it is a request for a declaratory opinion.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.6 Signature Attestation. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.7 Request Content Requirement. Each request must contain the following:

A. A clear identification of the statute, rule, or order at issue;

B. The question for the declaratory opinion;

C. A clear and concise statement of all facts relevant to the question presented;

D. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and

E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 3.8 Reasons for Refusal of Declaratory Opinion Request. The MDA may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

A. The matter is outside the primary jurisdiction of the MDA;

B. Lack of clarity concerning the question presented;

C. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;

D. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

E. The facts presented in the request are not sufficient to answer the question presented;

F. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;

G. The request seeks to resolve issues which have become moot or are abstract or

hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;

H. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;

I. The question presented by the request concerns the legal validity of a statute, rule, or order;

J. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;

K. No clear answer is determinable;

L. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;

M. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;

N. The question is currently the subject of an Attorney General's opinion request;

O. The question has been answered by an Attorney General's opinion;

P. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;

Q. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or

R. The question involves eligibility for a license, permit, certificate or other approval by the MDA or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.9 Agency Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the MDA shall, in writing:

A. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;

B. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or

C. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day after which the request is received by the MDA.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.10 Availability of Declaratory Opinions and Requests for Opinions. MDA Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain

confidential.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Part 5 Chapter 4: Organization of the Mississippi Development Authority

Rule 4.1 Chapter Content. In accordance with Section 25-43-2.104(a) of the Mississippi Administrative Procedures Act, this chapter describes the Mississippi Development Authority's duties and responsibilities, the organization of the Mississippi Development Authority's office, its methods of operation, and how the public can contact the agency to make submissions or requests.

Source: Miss. Code Ann. §25-43-2.104 (Rev. 2006)

Rule 4.2 Mississippi Development Authority's Organization. The Mississippi Development Authority consists of an executive director appointed by the Governor, with the advice and consent of the Senate. The executive director shall be the executive officer of the department in the execution of any and all provisions of this chapter.

Source: Miss. Code Ann. §57-1-5 (Rev. 2008).

Rule 4.3 Executive Director Duties. The executive director shall have the following powers and duties:

A. To formulate the policy of the department regarding economic and tourist development of the State.

B. To use and expend any funds from the state, federal or private sources coming into the department for the purposes provided pursuant to statute.

C. To implement the duties assigned to the department and consistent with specific requirements of law, including but not limited to:

(i). Support services to include legal, finance, data processing, personnel, communications and advertising, purchasing and accounting;

(ii). Research and planning;

(iii).Outreach, agency liaison and community development;

(iv). Tourism, business travel and film;

(v). Programs and assistance for existing state business and industry;

(vi). Recruiting new business and industry into the state;

(vii). Fostering and promoting of entrepreneurship and the creation of new business in the state;

(viii). Programs aimed at competing effectively in the international economy;

(ix). Programs relating to the development of the ports;

(x). Such other areas as are within the authority and jurisdiction of the department and will promote and foster economic development;

(xi). Salaries of associate directors, deputy directors and bureau directors may be set by the executive director of the department.

Source: Miss. Code Ann. §57-1-5 (Rev. 2008).

Rule 4.4 Mississippi Development Authority Legislative Oversight Committee. There is a Mississippi Development Authority Legislative Oversight Committee charged to serve in an advisory capacity regarding matters under the jurisdiction of the MDA. However, the Committee shall have no jurisdiction or vote on any matter within the jurisdiction of the MDA.

Source: Miss. Code Ann. §57-1-10 (Rev. 2008).

Rule 4.5 Advisory Council. The Governor shall appoint an advisory counsel to the agency consisting of twenty-five members, five from each congressional district. The Governor shall serve as chairman of the council. The members shall serve in an advisory capacity and serve without pay and compensation for expenses.

Source: Miss. Code Ann. § 57-1-3 (Rev. 2008).

Rule 4.6 Contact Information. A current listing of contact information for the Mississippi Development Authority may be found at www.mississippi.org or obtained by calling (601)-359-3449.

Source: Miss. Code Ann. § 25-43-2.104 (Rev. 2006).

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 assists 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 maybe 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 guaranties 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 that 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 (the 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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005)

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 (Rev. 2005) (as amended in HB 1148).

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

Source: Miss. Code Ann. § 69-2-13 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 fee will be a one-time charge and may be paid by the agribusiness, deducted from the ABE Loan proceeds, or financed as a part of the Lender's 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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 weighted 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 weighted 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

(i) producer's copy of USDA Form 9061-2; and

(ii) loading ticket, at time of catching, containing truck number, trailer number, number of birds per coop, and number of full coops; and

(iii) copy of weight tickets for live birds; and

(iv) copy of medication charges either at delivery or with settlement payments; and

(v) copy of sample computation of payment formula, which shall use producer's actual figures.

This subsection C does not apply to loans for pullet and breeder houses.

D. Processor must use all available means to insure 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 effected 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 effect 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 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 (Rev. 2005) (as amended in HB 1148).

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 $200,000, whichever is less. Upgrades for the retrofitting of poultry houses shall not exceed thirty percent (30%) of the total cost of the project or $200,000, 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 $200,000, 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 $200,000 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 $400,000.

Source: Miss. Code Ann. § 69-2-13 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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, subparticipated, subdivided, encumbered or otherwise transferred.

Source: Miss. Code Ann. § 69-2-13 (Rev. 2005) (as amended in HB 1148).

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 (Rev. 2005) (as amended in HB 1148).

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 ~~Process~~ Requirements.

A. ~~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 refered 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. ~~must first contact the applicable Community or Junior College, Workforce Investment Board or Institution of Higher Learning to request training and determine if funds from other sources are available for the desired training activity.~~

1. The standard cover sheet included with application;
2. 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;
3. A description of the need and purpose for which the training assistance is requested;
4. 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;
5. A description of the training to be delivered, the training objectives and how the funds will be used to meet the objectives;
6. 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;
7. A detailed description and supporting documentation of the steps taken to access or utilize other esources and documentation that such resources are not available to meet the need;
8. A detailed description of the total training project costs, supported by a line-item cost estimate;
9. A proposed schedule for the planning, provision and completion
10. 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 Application Format.* The applicable Community or Junior College, Workforce Investment Board or Institution of Higher Learning, in partnership with the business, must submit the application according to the appropriate format included with this document as an attachment. Two (2) copies of the application must be submitted to MDA. MDA will evaluate the application according to the following criteria:~~

~~A. The application must be complete, with all information supplied,~~

~~B. The application should ensure that the proposed training is consistent with MDA's workforce training priorities,~~

~~C. The application must clearly describe the training to be delivered, state the training objectives, and describe how the funds will be used to meet the objectives,~~

~~D. The application must document that the training is needed and that other resources are not available to meet the need, and~~

~~E. Any additional criteria required by MDA.~~

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

Rule 5.8~~9~~ 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~~10~~ 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~~11~~ 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~~12~~ 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~~13~~ 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~~14~~ 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~~15~~ 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 c 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

G. the company's needs.

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

Rule10.8 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)

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
(vii). 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.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008)

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)

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 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)

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)

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)

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)

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, whichever threshold occurs first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008)

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.*

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)

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 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)

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)

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)

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)

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, whichever occurs first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008)

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)

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 ("MESC") 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

H. 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.

I. Provide a map showing where in the GAP County or supervisor's district they are located or locating.

J. 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: 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 $$750,000. 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 three percent (3%) 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)

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 $750,000. 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 three percent (3%) 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)

Part 1 Chapter 16: Motion Picture Production Tax Incentive Program

Rule 16.1 Purpose. There is a sales and use tax exemption available for a motion picture production company on purchases used in the production of a nationally distributed feature-length film, video, television series or commercial made in Mississippi. This does not include news or athletic events.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.2 Eligibility. This Motion Picture Incentive is a sales and use tax exemption that was created as an incentive for the motion picture industry to locate its production business in Mississippi. The exemption is for the purchase of production items used in the production of a motion picture project that has been certified by the Mississippi Development Authority (MDA). To be eligible for the exemption, the item(s) must be sold directly to, billed directly to, and paid for directly by the business receiving the exemption.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.3 Definitions.

A. Motion Picture: A nationally distributed feature-length film, video, television series or commercial. It does not include any sports or news coverage or film, video, television series or commercial containing any material or performance that is defined as obscene in Miss. Code Ann. Section 97-29-103.

B. Motion Picture Production Company: Any company engaged in the business of producing nationally distributed motion pictures, videos, television or commercials. The company producing the motion picture cannot have defaulted on any state loan or have declared bankruptcy where a state obligation had been discharged because of the bankruptcy.

C. Project: A production certified by MDA. To qualify, a project must be a nationally distributed feature length film, video, television series or commercial that is made (in whole or in part) in Mississippi for theatrical or television viewing.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.4 Items Used. The exemption covers items used on location such as:

J. film;
K. videotape;
L. component building materials used in the construction of a set;
M. makeup;
N. fabric used as or in the making of costumers;
O. clothing, including, shoes, accessories and jewelry used as wardrobes;
P. materials used as set dressing;
Q. materials used as props on a set or by an actor;
R. materials used in the creation of special effects;
J. and expendable items purchased for limited use by grip, electric and camera department such as tape, fasteners and compressed air.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.5 Machinery Used. There is a reduced rate of one and one-half percent (1 ½%) on the purchase of machinery and equipment used in the production of a motion picture. Such equipment includes:

A. editing equipment;
B. audio equipment;
C. lighting equipment;
D. projection equipment;
E. camera equipment;
F. sound equipment;
G. cables and computer equipment for use in the editing process, creation of special effects and for use in the graphic and animation process.

Manufacturing machinery used in the production of motion pictures is not required to be limited to plant site use only.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.6 Application. The motion picture company must apply to MDA to have their project certified by submitting a letter to the Mississippi Film Office that includes the following:

A. Company name, address, phone and fax numbers;
B. Company's local production office address, phone and fax numbers;
C. Names of the Line Producer, Unit Production Manager and Production Accountant;
D. Title of the production;
E. Type of project (feature-length film, video, television series or commercial);
F. Proposed dates of production, including start date of pre-production and completion date of principal photography;
G. Copy of the script or synopsis;

H. Intended plan for national distribution.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.7 Notification. MDA will notify the motion picture company of their acceptance by providing the following:

A. Approval letter and MDA Board meeting minutes
B. A certification number;
C. Names and numbers of contacts;
D. Required forms to be completed;
E. General guidelines for participation in the program.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.8 Certification. To be certified as eligible for the exemption from MSTC, the business must submit the following:

A. A completed Application for Certification for Economic Incentives, Form 70-801;
B. A completed Registration Application, Form 70-001, for a use tax account (if one has not been assigned); and
C. A completed Application for Direct Pay Permit for each project.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Rule 16.9 Direct Pay Permit. If the exemption is granted, then the Direct Pay Permit number should be furnished to all vendors so that the retail sales or use tax will not be charged. Any tax due on the purchase of items taxable at the reduced one-half percent (1 ½%) rate should be remitted directly to the Tax Commission using the use tax return. An expiration date will be given for the Direct Pay Permit issued for the specific project. After this date, the Direct Pay Permit would no longer be effective and the tax would be remitted to the vendor in the normal course of business. If a second project is planned, a new Direct Pay Permit will be required. Exemptions will not be given on any expenditure that is made prior to the certification date. Any tax paid to the vendor before the direct pay permit is issued and any tax paid in error after issuance of the direct pay permit must be refunded from the vendor.

Source: Miss. Code Ann. § 57-89-1 *et seq*. (Rev. 2008)

Title 6: Economic Development

Part 2: Minority and Small Business

Part 2 Chapter 1: Minority Surety Bond Guarantee Program

Rule 1.1 Overview. Mississippi Code Section 69-2-13(5) directs the Mississippi Development Authority (MDA) "to develop a program which will assist minority business enterprises by guaranteeing bid, performance, and payment bonds which such minority businesses are required to obtain in order to contract with federal and state agencies or political subdivisions of the

state." A Loss Reserve Fund of $2,000,000 was appropriated with authority for an additional $1,000,000 to guaranty private surety bonds guaranteed under the Minority Surety Bond Guaranty Program.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.2 Purpose. The Minority Surety Bond Guaranty Program strives to increase minority participation in construction and building trades contracts with federal, state, and local units of government, and their subsidiaries. Often minority firms are unable to compete for this business because they cannot obtain the bid, performance, and payment bonds required for government contracts. The Minority Surety Bond Guaranty Program assists these firms through surety bond guaranties and technical assistance to internal management. The goal of the Minority Surety Bond Guaranty Program is to help minority and women contractors establish a bond line with a surety company with a partial guarantee from the state. This will provide to the contractors an opportunity to form a relationship with a surety company thereby enabling them to obtain bond lines without a state guarantee. With successful completion of contracts guaranteed under the program, coupled with management and technical assistance directed by the program administrator and others, it is projected that minority contractors will grow in experience, management skills and the financial stability sufficient to obtain surety bonding on their own.*

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.3 Contractors. A contractor/applicant must meet the following criteria:

A. Be in the construction or building trades business.

B. Be a certified business enterprise, Minority-Owned Business Enterprise (MBE) or Woman-Owned Business Enterprise (WBE) through the Minority and Small Business Development Division (MSBDD) of MDA.

C. Have been in business at least one year prior to application.

D. Have its principal place of business located in the state of Mississippi.

E. Meet experience and financial standards appropriate to the contract.

F. Agree to subcontract no more than seventy-five (75%) of a qualified contract.

G. Show reasonable evidence of inability to secure bonding in the general market.

H. At the discretion of the Surety Bonding Committee, agree to attend instructional courses designed by the Mississippi Development Authority's Minority & Small Business Development Division and the selected surety company to meet general requirements leading to independence in securing bonding and contractor licensing. The committee may waive all or selected courses based on an assessment of the level of competency of the participant The classes will be conducted over a 13-week period (one 3 hour class per week). The courses will be conducted by professionals in the related fields of expertise and include the following:

Week 1: Business Planning and Organization
Week 2: Risk Management
Week 3: Estimating
Week 4: Dispute Management
Week 5: Scheduling

Week 6: Occupational Safety
Week 7: Finance and Business Management
Week 8: Conflict Resolution
Week 9: Contract Management
Week 10: Surety Bonding
Week 11: Equipment Management
Week 12: Written Communication
Week 13: General Contractors State Licensing Preparation
Optional: Contractor Exam Review

The courses will be available statewide through utilizing the resources of the Mississippi Community Colleges and Universities and other resource partners. The courses will be provided at a nominal cost to the participant. For course completion, no more than three absences will be permitted, not including the optional session (Exam Review).

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.4 Types of Bonds.

A. Bid Bond: Guarantees that the bidder on a contract will enter into the contract and furnish the required payment and performance bond.

B. Payment and Performance Bond: Guarantees payment from the contractor to the person who furnishes labor, material, equipment and/or supplies for use in the performance of the contract. The bond also guarantees that the contractor will perform the contract in accordance with its terms.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.5 Qualifying Governmental Agencies. Examples of governmental agencies whose construction contracts qualify:

A. Federal Agencies:
   (i). U.S Post Office
   (ii). U. S. Army Corp of Engineers
   (iii). Department of Housing and Urban Development
   (iv). U.S. Military

B. State Agencies:
   (i). Universities and Community Colleges
   (ii). Department of Transportation
   (iii). Bureau of Buildings, Grounds, and Real Property Management

C. Local Governments and Subsidiaries:
   (i). Cities, towns and counties
   (ii). Public housing authorities
   (iii). Public Schools
   (iv). Public Facilities
   (v). Roads and Bridges
   (vi). Other Related Public Infrastructure

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.6 Guaranty Amounts. For a Mississippi Development Authority approved firm, the Minority Surety Bond Guaranty Program offers bond guaranties up to $175,000 for a company new to the program. After reevaluation, the maximum guaranty amount increases to $250,000 in the company's second year of participation providing that there has been no default and the company remains eligible. The Mississippi Development Authority may guarantee up to ninety (90%) of specified bond amounts up to the applicable maximum.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.7 Costs. There is no charge for bid bonds through the Mississippi Development Authority or the surety company. For payment and performance bonds, there is an administrative charge of .6% per thousand dollars to Mississippi Development Authority.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.8 Default. The definition of surety losses is the responsibility of the Surety and the Mississippi Development Authority as detailed in applicable Bond Guaranty Agreement documents.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 1.9 Application. To apply for bonding assistance through the Minority Surety Bond Guaranty Program, a business will first contact the Minority & Small Business Development Division or one of the Mississippi Contract Procurement Center Regional Offices for applications and/or technical assistance in submitting certification and bonding applications. Bonding applications are then forwarded to participating Underwriters and Sureties. The application packages will include the following and must be submitted for each bonding request:

A. Bond Application
B. Project Data Sheet
C. Complete Submission of Document Check List Items

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Part 2 Chapter 2: Minority Enterprise Division Appeals Procedure

Rule 2.1 Scope. This procedure is the exclusive method for seeking administrative review of adverse action taken by Minority Business Enterprise Division, a division of the Mississippi Development Authority.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.2 Appealable Actions. An applicant/participant may appeal the following adverse actions taken by MBED - a denial of program admission and/or a denial of renewal of program admission. However, an adverse action is only appealable if MBED's decision is based solely on

a negative finding of social disadvantage, economic disadvantage, ownership, control or any combination of these four criteria. An adverse action that is based, even in part, on failure to meet any other eligibility criterion is not appealable and is the final decision of the agency.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.3 Notice. The applicant/participant shall be advised in writing of the grounds on which MBED based its action. The notice will be sent by certified mail return receipt requested. The notice of action shall also include a statement indicating that the applicant/participant has the right to request reconsideration or if applicable, to appeal the action under the provisions of Section 2 above.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.4 Request. An applicant/participant may request reconsideration by MBED of any adverse action regardless of whether the adverse action is appealable under Section 2 above. Such request must be in writing to the Director of Minority Business Enterprise Division, Mississippi Development Authority, P.O. Box 849, Jackson, Mississippi 39205-0849. The Director of MBED must receive the request for reconsideration within twenty (20) calendar days from the date the Notice of Adverse Action was mailed. The request must specify the matter(s) to be reconsidered and include any additional information the applicant/participant wishes to be considered.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.5 Review. Upon receipt of a request for reconsideration, MBED will review the request and any information provided, conduct further inquiry if necessary, including but not limited to an in-person discussion with the applicant/participant, and submit its decision in writing, certified mail return receipt requested, to the applicant/participant within fifteen (15) days. A timely received request for reconsideration tolls the twenty (20) day time period for appeal of an adverse action. Upon receipt of an adverse reconsideration decision, the applicant/participant may submit a petition for appeal if the decision is based on appealable matters pursuant to Section 2 above.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.6 Procedure for Petition for Appeal.

A. The applicant/participant petitioning for appeal, must file its petition in writing with the Director of Minority Business Enterprise Division, Mississippi Development Authority, P. O. Box 849, Jackson, Mississippi 39205-0849 not later than twenty (20) calendar days from the date the notice of adverse action was mailed; or within twenty (20) calendar days from the date the decision on a Request for Reconsideration under Section 4 above was mailed The petitioner must specify within its petition for appeal the grounds upon which administrative review of the decision is sought. The petition must clearly indicate the type of remedy requested and name the contact representative for the petitioner. A hearing shall be held only if the petitioner specifically requests a hearing in

its petition for appeal. If no petition for review of an appealable adverse action is filed within the above stated time, the decision shall become final.

B. MBED shall acknowledge the receipt of the request for appeal within seven (7) calendar days of receipt. Such acknowledgement shall designate the review officer.

C. Filing of a petition for appeal shall not stay the effect of the MBED's adverse action.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.7 Review Officer. The review officer shall be an independent and impartial officer other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section. The review officer may, however, be an employee of the MDA.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.8 Procedure for Hearing on Appeal.

A. The petitioner may refute the grounds on which MBED based its action in person and/or by written documentation submitted to the review officer. In order to be considered, all written documentation of the petitioner and MBED must be filed with the review officer with a copy to the opposite party not later than thirty (30) calendar days after the mailing of the acknowledgement of appeal.

B. The petitioner may retain legal counsel at its own expense. A hearing shall be held by the review officer in addition to, or in lieu of, a review of written information submitted by the petitioner only if so specified in the petition of appeal. The review officer shall set a hearing date which date shall not be later than thirty (30) calendar days from the date of mailing of the acknowledgement of appeal, unless the parties agree to a later date. Failure of the petitioner or its counsel to appear at a scheduled hearing shall constitute waiver of the hearing. A representative of MBED shall be allowed to attend the hearing to present evidence, respond to the petitioner's testimony and to answer questions posed by the review officer.

C. Any hearing shall be conducted in such a manner that all parties have a fair and reasonable opportunity to present witnesses and other evidence pertinent to the issues. In conducting the hearing, the review officer shall not be bound by common law or by statutory rules of evidence or by technical or formal rules of procedures, but may conduct the hearing in such a manner as best to ascertain the rights of the parties. However, hearsay evidence (if presented) shall not be the sole basis for the determination of facts by the review officer. The review officer may also ask questions to clarify issues, limit the examination or cross-examination of witnesses to keep the hearing focused on the issue, and recess/reconvene the hearing if necessary.

D. If any party to the appeal wishes to have stenographic notes of the proceedings, that party shall be solely responsible for payment of a court reporter for that service; the review officer shall, on request, engage a court reporter for this purpose. An audio tape recording shall be made of the proceedings and may be duplicated and/or transcribed at the expense of either party requesting it.

E. It shall be the responsibility of each party to secure the attendance of such witnesses as deemed necessary to present the case; any expense connected with that attendance

shall be borne by the party responsible for the attendance of that witness. The review officer shall not have power to subpoena witnesses or documents.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.9 Recommendation. After conducting de novo review of the materials submitted by the parties and of the evidence taken at the hearing, if any, the review officer shall make a written recommendation to the Executive Director of the Mississippi Development Authority (MDA). The written recommendation will be issued to the Executive Director within twenty days (20) after the hearing is completed or, if no hearing is held, after submission of any written documentation permitted by Section 7(a) above. The recommendation of the review officer shall contain specific reason(s) why the denial or termination decision should be upheld or overturned. A copy of the recommendation will be sent to petitioner and to the Director of MBED by certified mail return receipt requested.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.10 Executive Director Review.

A. After review solely on the record, the Executive Director may adopt the recommendation of the review officer or may issue a differing decision. The Executive Director will issue his decision within fifteen (15) calendar days of receipt of the recommendation of the review officer. A decision adopting the recommendation of the review officer need not contain any additional reasoning.

B. The decision of the Executive Director shall be sent by certified mail return receipt requested to the petitioner and to the Director of MBED. The decision of the Executive Director is final.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.11 Remand. In the event an appealable adverse action is overturned as a result of an appeal the Executive Director of MDA may direct, the disposition to be made by MBED of the application, renewal or termination; or the application may be remanded to MBED for further action consistent with the decision of the Executive Director. MBED will indicate what steps, if any, must be taken to complete or reinstate certification.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Rule 2.12 Immunity. Nothing in the appeal procedure shall be construed as a waiver of the immunities from suit conferred upon the State of Mississippi, MDA, or any of its employees, officers, agents or designees, under the Eleventh Amendment of the United States Constitution and the Constitution and laws of the State of Mississippi.

Source: Miss. Code Ann. § 69-2-13(5) (Rev. 2005)

Part 2 Chapter 3: Minority Business Enterprise Loan (MBE) and Micro-Loan (MBEM) Programs

Rule 3.1 MBE Overview. The Mississippi Business Enterprise Loan Program, administered by the Mississippi Development Authority, combines state and private lending sources to assist new and existing minority business in gaining access to needed capital in the form of direct low-interest rate loans. The State of Mississippi amount ranges from $35,001 to $250,000 with the potential of $500,000 with 50% match from another lending source or entity.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.2 Eligibility. To be eligible for funding under the program, the Minority Business Enterprise must be a socially and economically disadvantaged small business concern. The business must be organized for profit, perform a commercially useful function and be owned or controlled by one or more minorities or women.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.3 Definitions. For purposes of this program, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 U.S.C.S., Section 637 (A)) and shall include all women. MBE Loan applicants, regardless of race or gender, must be determined to be socially and economically disadvantaged due to diminished capital and credit opportunities as compared to others in the same business area that are not socially disadvantaged.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.4 Ability to Repay. All applicants must be credit worthy and demonstrate the ability to repay the loan, must be in compliance with all state and federal regulatory agencies, and must not be in default on any previous loans from the state or federal government. No minority business will be eligible if it is:

A. A charitable institution or nonprofit organization
B. A newspaper, magazine, radio, television broadcasting company or similar enterprise through which editorial opinions are expressed
C. Engaged in the business of lending, directly or indirectly

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.5 Proper Use of Loan Proceeds. MBE loan proceeds may be used to finance costs associated with the creation or expansion of a minority business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.6 Borrower Investment Requirement for a New Business. When loan proceeds are used to start a new business or to purchase an existing business, the total project cost is the amount required to establish or acquire that business. The borrower must inject a minimum of five

percent (5%) equity into the project in the form, of cash of tangible assets such as land, building or equipment.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.7 Borrower Requirements to Expand an Existing Business. When loan proceeds are used to expand an existing business, the total project cost will be the total funds required to complete the proposed expansion. Assets owned by the business prior the expansion are not to be included in the project cost, unless it can be clearly documented that assets acquired prior to the application were purchased as a part of the expansion project. Existing business assets may be used as collateral for the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.8 When Loans are Unavailable. MBE loans are not available under the following circumstances:

A. To pay off existing debts 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 Minority Business and would not change the ownership interest of the business (does not apply to ordinary compensation for services rendered in the course of business);
D. If the loan funds would provide or free funds for speculation in any kind of property;
E. If the assistance would finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment, or;
F. If the assistance would finance vehicles.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.9 Terms of MBE Loan(s). The maximum term of the MBE loan shall be seven (7) years for working capital, ten (10) years for machinery and equipment, and fifteen (15) years for land and building. If loan proceeds are to be used for a combination of working capital, machinery and equipment, or land and building, then a blended term may be used that is proportionate to the use of the funds and to the collateral securing the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.10 Proper Use of MBE Loan Funds. MBE loan funds may be used to fund fifty percent (50%) of total project that consist of borrowed costs or $250,000, whichever is less. The minimum total project eligible for consideration is $15,001. Any project requests of $35,000 or less may be eligible for funding under the Minority Micro-Loan Program as outlined below. A combination of state funds may be used to finance project costs; however, the combination of these funds may not exceed 50% of the total project that is borrowed.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.11 Interest Rate on MBE Loan(s). The minimum interest rate, which may be charged to the minority business on MDA's portion of the MBE loan, is two percent (2%) below the Federal Reserve Discount Rate, and the maximum is two percent (2%) above the discount rate. Should the interest rate change from the date of commitment to the date of closing, the interest rate quoted in the commitment will prevail.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.12 Collateral on MBE Loan(s). Collateral on MBE loans made by the qualified entity should normally be subordinated to the senior lender.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.13 Fees on MBE Loan(s). The qualified entity may charge an origination fee of up to 1% on the first $250,000 loaned. Additional fees paid by the borrower in connection with the closing of the MBE loan are limited to attorney fees and other associated closing costs that may not exceed $750. These fees may be paid from proceeds. Should extenuating circumstances cause fees to exceed these stated amounts, written justification should be provided along with the settlement sheet.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.14 MBEM Overview. The Mississippi Business Enterprise Micro-Loan Program provides a funding source for businesses needing financing for small projects. Loan amounts for projects range from $2,000 to $35,000 with an owner's equity injection (i.e. cash, tangible equity such as land, building(s) or equipment) of five percent (5%).

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.15 Terms of MBEM Loan(s). The terms allowed are determined by the loan amount and should relate to the type of collateral offered. Terms should not exceed three (3) years for loans of $2,000 to $5,000, four (4) years for loans of $5,001 to $10,000, five (5) years for loans of $10,001 to $15,000, and seven (7) years for loans of $15,001 to $35,000.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.16 Proper Use of MBE Micro-Loan Funds. MBE Micro-Loan funds may be used to finance up to 100% of total projects of $2,000 to $35,000. All borrowers must have at least 5% equity in the project. These funds are not intended to be used as gap financing and proceeds shall not be utilized with any other financing.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.17 Interest Rate on MBE Micro-Loan(s). The interest rate to be charged is four percent (4%) over the Federal Reserve Discount Rate, fixed for the term of the loan. Should the interest

rate change from the date of commitment to the date of closing, the interest rate quoted in the commitment will prevail.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.18 Collateral on MBE Mircro-Loan(s). Collateral shall include a first lien on all assets acquired with loan proceeds. Collateral may also include liens on other business and/or personal assets as deemed necessary to adequately secure the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.19 Qualified Entity Involvement in Approval of MBE Mircro-Loans. The qualified entity's Board of Directors may choose to appoint an in-house loan committee comprised of staff members of the Qualified Entity to approve micro-loan applications. MDA will require a copy of the board minutes authorizing the in-house committee prior to the submission of loan applications.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.20 Fees on MBE Micro-Loan. The qualified entity may charge an origination fee of up to 1% of the loan amount. At the option of the qualified entity, a minimum fee of $100 may be established. Additional fees paid by the borrower in connection with the closing of the MBE Micro-Loan are limited to attorney fees and other associated closing costs. These fees may be paid from loan proceeds.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.21 Application Submission. Applications may be submitted by mail or facsimile to MDA. A credit report and a personal financial statement of each owner of the minority business must accompany the application. All other documentation as indicated on the application form shall be retained on file with the qualified entity.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.22 Application Requirements. All qualified entities will provide applicants under this program an application packet that includes the MBE loan application, a summary of the loan program criteria, eligibility requirements, a summary of the application process, loan closing procedures, and applicable fees. All MBE loan requests shall be submitted to MDA on the approved Minority Business Enterprise Loan Application. This application is intended to be completed by the qualified entity with information provided by the applicant. The qualified entity’s board or designated loan committee shall first have approved all loans submitted to MDA for consideration. At a minimum, the composition of the Board of Directors shall include an individual with current banking experience, an individual owning a for-profit, commercial enterprise, a minority individual with current experience in banking or business ownership and a female with current banking or business ownership experience.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.23 Notification of Approval. When an application has been approved, MDA will notify the Qualified Entity in writing. Upon receiving MDA'S approval, the qualified entity may submit a request for payment form. MBE loan proceeds not disbursed by the Qualified Entity within sixty (60) days of receipt must be returned unless an extension is granted by MDA or be subject to interest penalties.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.24 Reporting Requirements. Each qualified entity will be required to file status reports with MDA as of December 31 and June 30 of each year summarizing project information and fund uses. These reports are due on January 31 and July 30.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 3.25 Audits. An independent audit of grant funds received in connection with this program shall be submitted to MDA annually. This audit shall include a reconciliation of all bank accounts where MBE funds are being held on deposit.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Part 2 Chapter 4: Mississippi Capital Access Contract Loan Program (MS CAP)

Rule 4.1 Overview. The Mississippi Capital Access Program, administered by the Mississippi Development Authority (MDA), is designed to increase the availability of financing for borrowers who for various reasons might have difficulty in obtaining conventional loans. The essential element of the program is a loan secured by proceeds of a public contract ("Contract Loan"). The loan will be made on the basis of a construction contract with a public entity having been awarded to the borrower.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.2 Definitions. For the purpose of this program, the "socially and economically disadvantaged" shall have the meaning ascribed to such term under the Small Business Act (15 U.S.C., Section 637[a] and shall include woman. Businesses qualifying as minority or women owned must sign a notarized affidavit indicating ownership.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.3 Proper Use of CAP Loans. Contract loans may be used for cost associated with a construction project or construction related contract being used as collateral for each loan. In the event the contract involves a subcontractor, the subcontractor may also apply for the Capital Access Contract Loan. In this case, the prime contractor or other qualified entities must agree to pay the subcontractor's loan amount directly to the lending institution. The maximum amount that may be loaned to anyone borrower is the greater of $75,000.00 or 75% of the contract

amount. This loan program has a limit of three loans per borrower. The loan may not be used in conjunction with any other State finance program. The Mississippi Development Authority may at its discretion require control of use and disbursement of funds on these loans. The applicant will be responsible for the cost of all fees associated with the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.4 Improper Use of CAP Loans. Capital Access Contract 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 a loan to owner, partners, or stockholders of the Small Business and would not change the ownership interest of the business (does not apply to ordinary compensation for services rendered in the course of business);

D. If the loan funds would provide funds for speculation in a any kind of property; or if the assistance would finance the acquisition, construction, improvement, or operation of real property which is to be held primarily for sale or investment;

E. If the loan is for construction or purchase of residential housing.

Each loan made under the Capital Access Contract Loan Program must be approved by the Mississippi Development Authority.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.5 Eligibility. An eligible Financial Institution is any commercial bank, savings bank, or association domiciled or qualified to do business in the State and other types of financial institutions, including but not limited to Small Business Investment Corporations, (Hereafter referred to as "Financial Institution"). For the purpose this loan program, the participating Financing Institutions will be those that have qualified to participate in the Capital Access Loan Program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.6 Eligible Businesses. Businesses, which are eligible to participate in the Capital Access Program, must fall into one of the following categories:

A. A Small Business, which is defined as any independently owned and operated for-profit, commercial enterprise domiciled in the State with less than 50 full-time employees. Owner(s) must have completed the Model Contractor Development Program or completed the small business training programs offered through the Entrepreneur Center; or

B. A Small Disadvantaged Business, which is publicly owned with at least 51 % of its stock unconditionally owned by one or more socially and economically disadvantaged individuals, and whose management and daily operation is controlled by one or more such individuals; or

C. A Minority Business that meets the definition of a minority or woman owned business. A minority or woman owned business is a business enterprise, which is socially

and economically disadvantaged and owned and operated by one or more women or eligible minorities. The business must be organized for profit and perform a commercially useful function.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.7 Sole Proprietorship Restriction. If the Small Business is a sole proprietorship, the owner must be a resident citizen of the State of Mississippi and if the business is a corporation or partnership, at least 51 % of the owners must be resident citizens of Mississippi.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.8 Ability to Repay. The small business must be credit-worthy and demonstrate the ability to repay the loan, the ability to successfully fulfill the contract being used as collateral, must be in compliance with all state and federal regulatory agencies, and must not be in default on any previous debt or obligation with the state or federal government.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.9 Ineligible Small Businesses. Small Businesses that are not eligible for assistance under this program are:

A. Charitable institution or nonprofit enterprise; or
B. Newspaper, magazine, radio, television broadcasting company, or similar enterprise through which editorial opinions are expressed; or
C. Businesses engaged in lending, directly or indirectly;
D. Immediate relatives of any current staff or board members of a Financial Institution.
E. Immediate relative is defined as a spouse, parent, child or sibling of the applicant.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.10 Use of Loan Proceeds. MS CAP may be used to finance costs associated with the creation or expansion of a Small Business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction, and professional fees related to the project. The maximum amount that may be loaned to anyone borrower is $150,000. The Loan may not be used in conjunction with any other State finance program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.11 Restriction on Use. The Financial Institution sets the terms and conditions of the MS CAP loan. However, the funds cannot be used to pay off:

A. Existing debt and/or creditors; or
B. Consolidation purposes;
C. Construction or purchase of residential housing; or real property that is held primarily for sale or investment.

Each MS CAP Loan must be approved by MDA to qualify for the program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.12 Contribution Outline.

D. Small Business	A minimum of 1.5% of the loan amount; A maximum of 3.5%
E. Financial Institutions	Will match the amount deposited by the Small Business (The Financial Institution may recover all or part of its contribution from the Small Business in the form of loan proceeds or cash injection)
F. Capital Access Program	Will match the total amount contributed by the Financial Institution and the Small Business.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.13 Loan Terms. The interest rate on this loan program shall be 0%. The length of the secured contract shall dictate the length of the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.14 Applications. Interested borrowers should contact a participating financial institution and for any additional information pertaining to the Mississippi Capital Access Program, please contact:

MISSISSIPPI DEVELOPMENT AUTHORITY
Financial Resources Division
Post Office Box 849 . Jackson, MS 39205
Telephone: (601) 359-3552 or Fax: (601) 359-3619

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Title 6: Economic Development

Part 3: Energy

Part 3 Chapter 1: Mississippi Energy Investment Loan Program

Rule 1.1 Purpose. The Mississippi Energy Investment Program ("Energy Investment Program"), administered by the Mississippi Development Authority ("MDA") is designed for making loans to qualified borrowers (the "Borrower") to promote development and demonstration of efficient, environmentally acceptable and commercially feasible technologies, techniques and processes while effectively utilizing the state's existing alternative and conventional energy resources to foster economic and social growth. Funding for the loans to the Borrower is derived from the appropriated funds which were a part of the Petroleum Violation Escrow Fund, M.D.L. 378 Oil Overcharge funds. The Energy Investment Program was enacted pursuant to Section 57-39-39, Miss. Code of 1972, as amended, and In Re: The Department of Energy Stripper Well Exemption Litigation, United States District Court, Kansas, M.D.L. No. 378, 1986 (jointly the "Act").

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.2 Eligibility. In order to obtain assistance under the Energy Investment Program, the applicant must be declared financially sound and capable of repaying the loan and must meet one of the following criteria:

A. Corporation;
B. Partnership;
C. Hospital (Public and private "non-profit");
D. Institutions of higher learning;
E. Community Colleges;
F. Schools (public or private);
G. Local Government entities

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.3 Eligible Projects. Eligible projects include retrofits and energy design process developments. The improvement must promote the development and demonstration of efficient, environmentally acceptable and commercially feasible technology and processes, and must also utilize Mississippi's existing energy resources, public utilities and/or developing resources to foster economic growth. In order for a project to be eligible to receive such assistance, the project must qualify pursuant to the two (2) phase eligibility requirements provided below:

A. Phase 1 Structural Eligibility: The structure, which is to be the target for the installation of energy efficiency measures will be financed with the proceeds of a loan, shall be considered eligible only if it is an existing structure that is at least one (1) year old, owned, occupied and used by the Borrower and, **is not**:

(i). Classified as condemned or scheduled for demolition; or,

(ii). Leased or rented by the applicant from another party unless the landlord has given the tenant written permission to proceed with the installation; or,

(iii). Encumbered by a real estate transaction or purchase option; or,
(iv). Included on the National Register of Historic Landmarks and Sites maintained by the U.S. Secretary of the interior or , if included, has received approval of the Mississippi Department of History and Archives to perform the work; or,
(v). Encumbered by subordinated mortgages, mechanics, or materialmen's, and/or any other types of liens that would prevent MDA from obtaining a security interest.

B. Phase 2 Eligible Retrofit Measures: Loans will be made available only for the purchase and installation of energy conservation measures that have been identified and recommended by an energy technical analysis. The combined simple payback of all the energy conservation measures being installed cannot exceed ten (10) years. Such technical analysis shall be performed by MDA. An energy conservation measure is one that is primarily intended to reduce energy consumption or allow the use of an alternative energy source. Loans cannot be used to finance projects that were completed prior to, or in the process of being installed, at the time of an application. Neither may a loan be used to finance "cosmetic" or rehabilitative improvements unless energy savings are justifiable. Eligible energy conservation measures include, but are not limited to, the following:

(i). insulation;
(ii). storm windows and doors, multi-glazed and other specially treated windows and door systems;
(iii). automatic energy control systems/energy management systems;
(iv). equipment to operate variable steam, hydraulic, and ventilating systems;
(v). solar heating and cooling systems, and electric generating systems;
(vi). furnace or utility plant and distribution system modifications to include burners, furnaces, boilers, and ignition systems;
(vii). caulking and weather-stripping;
(viii.) lighting fixtures and lamps;
(ix). energy recovering systems;
(x). cogeneration systems; and/or
(xi). other measures that can be shown to save energy or reduce energy demand.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.4 General Loan Terms. The maximum amount, which may be loaned from the Energy Investment Program to finance any one (1) project, is Three Hundred Thousand Dollars ($300,000). The fixed rate of interest which shall be set at the time the application is approved, will be three percent (3%) below the New York Prime Rate with a term not to exceed ten (10) years. The term and the repayment schedule will be established by MDA.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.5 Liens and Collateral. Ach 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 or measures installed or security interest in other assets. It should be noted MDA will require a one percent (1%) good faith deposit on projects involving real estate pledged as collateral. In the case of projects for local

government entities and public schools, MDA will require a pledge and assignment of tax revenues collected by such entity.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.6 Borrower Application Process. The application to be submitted by a Borrower 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 with a detailed breakdown of all public and private sources of funding;

C. The time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;

D. Submit company balance sheets, income statements and statements of cash flow for

E. the previous three (3) fiscal years and current statements dated within ninety (90) days

F. of application.

G. For local government entities and public schools:

(i). Certified proof of publication of the Resolution of Intention of the government entity to apply for an Energy Investment Program loan. The Resolution must be published once a week for at least four (4) consecutive weeks in a newspaper having general circulation in the county;

(ii). 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;

(iii). Opinion of counsel from the public schools and/or local government entity addressing the authority to borrow under the Energy Investment Program and to pledge a tax base as collateral for such loan; and

(iv). Most recent audited financial statements.

H. Two (2) copies of the application must be submitted to MDA. As part of the application process, MDA will perform a technical analysis. A technical analysis evaluates the ability of the Borrower to conserve energy or to improve the efficiency of a process through the installation of energy saving measures of the use of an alternative energy source. The technical analysis must clearly explain the measures to be undertaken and detail the energy savings and other revenue benefits attributable to the project. MDA will evaluate the application to determine if the project meets the program criteria and what terms and conditions the loan shall bear.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.7 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. At the time of the closing, the Borrower will be responsible for providing to MDA a one percent (1%) closing/servicing fee. The Borrower will also be responsible for paying for all costs associated with the closing of the loan, including searches and filing fees.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.8 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 documentations from the Borrower based upon a scheduled established by MDA.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.9 Audit. Loans made under the Energy Investment Program are subject to audit by the State Department of Audit.

Source: Miss. Code Ann. § 57-39-39 (Rev. 2008)

Rule 1.10 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. § 57-39-39 (Rev. 2008)

Title 6: Economic Development

Part 4: Community Services

Part 4 Chapter 1: Small Municipal and Limited Population County Grant Program (SMLPC)

Rule 1.1 Purpose. The Mississippi Small Municipal and Limited Population County Grant Program (SMLPC), administered by the Mississippi Development Authority (MDA), is designed for making grants to small municipalities and limited population counties or natural gas districts ("Local Sponsors") to finance projects to promote economic growth in the State of Mississippi ("State"). Funding for grants to Local Sponsors is derived from appropriations or funds otherwise made available by the State Legislature.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008).

Rule 1.2 Eligibility. A small municipality or a limited population county must submit an application to MDA. An eligible municipality, county and gas district is defined as follows:

A. Small Municipality: a municipality with a population of 10,000 or less, according to the most recent federal decennial census, at the time the application is submitted by the municipality.

B. Limited Population County: a county with a population of 30,000 or less, according to the most recent federal decennial census, at the time the application.

C. Natural Gas Districts: districts created by law and meeting the same requirements as small municipalities.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.3 Eligible Projects. Eligible projects financed with Mississippi Small Municipal and Limited Population County Grant Program funds must be publicly owned. All contracts and purchases must be made in accordance with normal bid and purchase laws of a municipality or county. Eligible projects shall have a direct connection to economic development or aid in the creation of jobs. Eligible projects include, but are not limited to:

A. Purchase, construction or rehabilitation of public buildings to include:
   - (i). Town halls
   - (ii). Libraries
   - (iii). Police Stations
   - (iv). Fire Stations
   - (v). Community Centers
   - (vi). Courthouses
   - (vii). Other Publicly Owned Buildings

B. Downtown Improvements to include:
   - (i). Sidewalks
   - (ii). Streets (only for town centers)
   - (iii). Lighting
   - (iv). Facade Improvements

(v). Beautification Improvements (waste receptacles, stop signs, street signs, landscaping, awnings, etc.)
(vi). Other downtown improvements as approved by MDA

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.4 Restrictions. SMLPC funds may not be used for working capital, for general expenditures, which would normally be covered under a local sponsor's general operation budget, or for administrative expenses. 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 SMLPC grant award amount.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.5 Competition. The SMLPC Program is a competitive program. As such, all funds awarded must be spent for improvements within the scope of the original project description as stated in the grant application. 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. 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.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.6 Changes to Original Application. 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. § 57-1-18 (Rev. 2008)

Rule 1.7 Steps to Apply. To apply for the Small Municipal and Limited Population County Grant Program, a completed application that is submitted by a Local Sponsor 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 Local Sponsor'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. A statement that the specific improvements are necessary for economic development
E. or job creation;
F. Engineering documentation;
G. Current employment levels at the project site and estimated increase, if any, as a result of financing the project; and
H. Copy of the Local Sponsor's resolution of authorization to apply for grant funds.
I. One (1) copy of the application must be submitted to the Community Services Division of MDA, Small Municipal and Limited Population County Grant Program, Post

Office Box 849, Jackson, Mississippi 39205 or hand-delivered to the 5th floor of the Woolfolk Office Building.

J. It should be noted that the Executive Director of "MDA" might in his discretion commit grant funds to projects prior to the application deadline. Such commitments would be made only if a specific project is involved and timing of the grant award would have a direct effect on the location or expansion of the project

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.8 General Grant Terms.

A. The program intent is to stimulate growth and economic development in small communities in the State.

B. The maximum grant amount, which may be awarded to any one Local Sponsor, will be $100,000.

C. The amount of each grant awarded will be based on population, ability of the community 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.

D. Each application will be evaluated on its own merit to meet the intent of the program.

E. There is a dollar for dollar match requirement. No application will be reviewed that doesn't provide at least a 50/50 match ratio. Matching funds must be in place by the time the application is due to MDA.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.9 Conditions for Disbursement of Funds. A Grant Agreement will be executed between the Local Sponsor and MDA. All funds will flow through the Local Sponsor.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Rule 1.10 Reimbursement Process. MDA will release SMLPC program funds for services rendered or 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 and application approved by MDA. Funds will be released upon receipt of the SMLPC Program Form of Requisition and supporting documentation from the Local Sponsor. Funds may only be drawn down once a month. Local Sponsors have two (2) years from the date of the Grant Agreement to request reimbursement for SMLPC project costs.

Source: Miss. Code Ann. § 57-1-18 (Rev. 2008)

Part 4 Chapter 2: Rural Impact Fund Grant Program (RIF)

Rule 2.1 Purpose. The Mississippi Rural Impact Fund Program (RIF) administered by the Mississippi Development Authority (MDA) is designed to assist and promote businesses and economic development in rural areas by providing grants and loans to rural communities (Local

Entities) and loan guarantees to rural businesses (Businesses). Funding for grants and loans to Local Entities and loan guarantees to businesses is derived from appropriations or funds otherwise made available by the State Legislature. The State Legislature enacted the RIF during the 2003 regular session. (See H.B. 1335).

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.2 Eligibility. A rural community must submit an application to the MDA. An eligible rural community and business are defined as follows:

A. Rural Community: a municipality with a population of 10,000 or less, according to the most recent federal decennial census, at the time the application is submitted by the municipality; or, a county with a population of 30,000 or less, according to the most recent federal decennial census, at the time the application is submitted by the county.

B. Rural Business: means a new or existing business located or to be located in a rural community; or, a business or industry located or to be located within five miles of a rural community.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.3 Eligible Projects. Eligible projects financed with RIF must be publicly owned with the exception of loan guarantees to rural businesses. All contracts and purchases must be made in accordance with normal bid and purchase laws of a municipality or county. Eligible projects include, but are not limited to:

A. Construction, rehabilitation or repair of building;

B. Sewer systems and transportation directly affecting the site of the proposed rural business;

C. Sewer facilities;

D. Acquisition of real property, development to real property, improvements to real property;

E. Any other project approved by MDA, and

F. Loan guarantees to Rural Businesses not to exceed eighty percent (80%) of the principal loan amount.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.4 Ineligible Projects. Gaming and utility businesses.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.5 Soft Cost. Eligible Projects must have a direct connection in creating jobs. RIF may be used for general expenditures in an amount not to exceed three percent (3%). (For example: $250,000 x .03 = $7,500). A limited amount of funds may be used for engineering, architectural, attorneys, consultants, agents and /or advisors costs. The amount of these professional services will be limited to an amount not to exceed eight percent (8%) of the RIF award amount. All funds awarded must be spent for improvements within the scope of the original project description as stated in the grant or loan application. Additionally, if grant or loan recipients

complete their project for less than the amount awarded, the excess funds will be returned to MDA. All requested changes and variances from the original application for the projects awarded must be made in writing and will be reviewed by MDA on a case-by-case basis.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.6 Rural Community Application. The application that is submitted by a local entity must include:

A. Purpose of the proposed grant and/or loan including a detailed list of the request;
B. A Description of the proposed project;
C. The estimated cost of the total project by major category (e.g. engineering, legal, administration, etc.) and all public or private sources of funding that have been secured that will be utilized exclusively for the project;
D. A time schedule for implementation and completion of the project, evidencing an expeditious completion of the project;
E. A statement that the specific project will create at least five jobs along with an F. estimated number of jobs to be created;
F. Engineering or architectural documentation where applicable;
G. The municipality or county's most recent unemployment rate at the time of application submission;
H. A copy of the Rural Community's Resolution of Authorization to apply for funds;
I. A statement reflecting how the project will be managed, and who will manage it;
J. Applications for loan guarantees must include the requested loans terms, reasonable interest rates, collateral position, and requested percentage of loan guarantee. The loan terms, the interest rate, and the percentage of loan guarantee will be based on the number of jobs created and the financial position of the rural business.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.7 Rural Business Application. For Rural Business Loan Guarantees, the business must provide the following:

A. Credit reports and personal income tax records on all investors with twenty percent (20%) or more investment in the company;
B. A description of the collateral with the appraised value, acquisition price and the expected life of the collateral;
C. The last three years of the company's annual audit, financial statements and tax returns;
D. For start-up companies, a business plan, three years of monthly proformas financial statements will be required, and
E. Corporate and personal guarantees.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.8 Application Process. Initially, any local unit of government seeking funding should set up a meeting or conference call with the RIF staff. At this meeting or conference call, the following information should be presented:

A. Project description
B. Preliminary budget
C. Source and use of funds

Based on this meeting or conference call, the Community Services Division (CSD) may issue a letter inviting a RIF application. The letter will state the amount of RIF funds that can be applied for, and the requirements.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.9 Selection Process. The process used for evaluating, selecting, and funding applications is based on the following:

A. Eligibility
B. Project readiness
C. Company's financial condition

One (1) original and one (1) copy of the application must be submitted to the Community Services Division of MDA, Rural Impact Fund Grant Program, 5th Floor Woolfolk Office Building, 510 North West Street, Jackson, MS. Applications will be accepted starting May 1, 2003. It should be noted that the Executive Director of MDA may at his discretion commit Rural Impact Funds to projects prior to an application being submitted to MDA, if a specific project is involved and timing of the award would have a direct effect on the location or expansion of the project. All projects funded should create a minimum of five (5) new jobs. A Rural Community may submit up to two applications during a calendar year; however, efforts will be made to fund projects representing all areas of the state.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.10 General. The program intent is to stimulate job creation and economic development in rural communities in the State. A grant amount of $250,000 or a loan amount of $350,000 will be the maximum for any rural community. A maximum of $350,000 will be allowed on 80% loan guarantees to rural business(es). Each application will be evaluated on its own merit to meet the intent of the program.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.11 Conditions for Disbursement of Funds. A Grant and/or Loan Agreement will be executed between the Rural Community/Business and MDA. The Agreement must be signed within one month of the grant award date. MDA will release Mississippi Rural Impact Program funds for services rendered, or on a reimbursement basis, for approved eligible costs of the project, as incurred. The Rural Community shall certify to MDA during construction that the expenses were incurred and were in accordance with the plans and application approved by MDA. Funds will be released upon receipt of the Mississippi Rural Impact Program Request for Cash and supporting documentation from the rural community. Funds may not be disbursed more frequently than monthly. Rural communities have one year from the date of the award to expend the funds under the Mississippi Rural Impact Program.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.12 Audit. Funds provided under the Mississippi Rural Impact Program are subject to audit by the State Department of Audit. Additionally, MDA will also monitor all projects to ensure compliance with the original application submitted. MDA intends to use up to three percent (3%) of the Rural Impact Funds available to hire staff to monitor funded projects and provide technical assistance.

Source: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Rule 2.13 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: Miss. Code Ann. § 57-85-1 *et seq.* (Rev. 2008)

Part 4 Chapter 3: The Local Governments Capital Improvements Revolving Loan Program (CAP)

Rule 3.1 Purpose. The Local Governments Capital Improvements Revolving Loan Program (CAP) administered by the Mississippi Development Authority (MDA) is designed for making loans to counties or municipalities (Applicant) to finance capital improvements in Mississippi. Applicants are encouraged to use these loans in connection with state and federal programs. Funding for loans to Applicants is derived from the issuance of state bonds. The State Legislature enacted CAP during the regular 1994 session. (See Section 57-1-301 through 57-1-335 et seq., Mississippi Code, Annotated.)

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.2 Eligibility. Application for assistance must be submitted by the governing authority of the county or an incorporated municipality.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.3 Eligible Projects. Projects that are eligible for assistance must be for capital improvements in Mississippi's counties and municipalities:

A. Construction or repair of water and sewer facilities
B. Construction or repair of drainage systems for industrial development
C. Improvements in fire protection
D. Construction of new buildings for economic development purposes
E. Renovation or repair of existing buildings for economic development purposes
F. Construction or repair of access roads for industrial development
G. Purchase of buildings for economic development purposes
H. Construction or repair of railroad spurs for industrial development
I. Construction of any county or municipally-owned health care facilities, excluding any county health departments

J. Construction, purchase, renovation or repair of any building to be utilized as an auditorium or convention center
K. Construction of multipurpose facilities for tourism development
L. Loans to a county to aid in retiring interest-bearing loans utilized for the purchase of a motion picture sound stage
M. Construction, repair and renovation of parks, swimming pools and recreational and athletic facilities. (Not intended to be used for school districts or for commercial purposes, such as health clubs, skating rinks, miniature golf courses, etc.)
N. Remediation of Brownfield agreement sites in accordance with Sections 49-35-1 through 47-35-25

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.4 Allowable Costs.

A. Construction costs (including reasonable and customary site work for buildings, right of ways, easements, etc.).
B. Up to 6% of the principal loan amount may be used for parking lots with new construction, renovation, and/or purchase of a building; and construction, repair and renovation of parks, swimming pools and recreational and athletic facilities.
C. Up to 4% of the principal loan amount may be used for fencing, recreational landscaping, and security lighting.
D. Up to 8% of the principal loan amount may be used for design work, i.e., engineer or architect excluding brownfield projects. Engineering and/or architectural costs above 8% must be paid from other funding sources.
E. Up to 10% of the principal loan amount may be used for a Mississippi Department of Environmental Quality (MDEQ) approved Brownfield Consulting Firm's fees for brownfield projects during the cleanup phase. Consultant fees above 10% must be paid from other funding sources.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.5 Disallowed Costs.

A. Remediation costs shall not include: costs incurred after the issuance of a No Further Action letter under Section 49-35-15, Mississippi Code of 1972, costs incurred before the executed brownfield agreement, costs incurred for any legal services or litigation costs, and any funds provided by any federal, state or local governmental agency or political subdivision.
B. Administration fees and legal fees for all capital improvements loans including brownfield projects.
C. The operating expenses, monitoring expenses and maintenance expenses incurred after the brownfield cleanup phase.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.6 Matching Fund Requirements. The construction or renovation of economic development buildings for speculative purposes requires a 50/50 match. The match must be in

cash or in-kind assets.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.7 Eligible Applicants. The Applicant must be an incorporated municipality or a county.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.8 Applicable Law. The Applicant must follow all state procurement and purchase laws. If an applicant has not advertised for bids within 120 days after receiving loan approval, the state will have the option to recall the CAP funds.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.9 Joint Applicants. If two separate local units of government jointly fund a project, the Applicants must have an inter-local agreement with the Attorney General's approval.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.10 Accounting. 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.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.11 Accounting Duties. The Applicant's certified public accountant, auditor, or fiscal officer must furnish to MDA the most current annual audit 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.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.12 Water Projects. The Public Service Commission must be consulted regarding water and wastewater projects.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.13 Fire Protection Loans. Fire protection loans shall be made to enhance structural fire fighting capabilities. Loans for fire trucks must meet the National Fire Protection Association standards.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.14 Access Road Requirements. If applicable, an access road for industrial development must follow state aid requirements. CAP loan funds are not to be utilized on major highway

projects.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.15 Railway Projects. If applicable, 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.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.16 Purchase of Buildings. The Applicant may not purchase a building that has been constructed in the last six months. The Applicant may not purchase an existing building or facility for more than the appraised value.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.17 Recreational Sites. Recreational sites developed with CAP assistance cannot be converted to uses other than their original scope/intent during the life of the loan.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.18 Advance Appraisals Required. If applicable, the Applicant will be required to obtain one appraisal and two review appraisals no more than three months prior to loan closing on buildings or facilities to be purchased.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.19 Lease Restrictions. The Applicant may not acquire buildings or facilities from individuals, companies, or corporations, and subsequently lease them to the seller (previous owner) within five years of acquisition.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.20 Legal Possession. The Applicant will be required to retain title on all capital improvements and brownfield sites until the loan has been repaid.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.21 Restriction on Loaning CAP Money. The Applicant will not be allowed to utilize CAP loan proceeds to make a loan to any private entity, public entity, or individual(s).

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.22 Tax-Exempt Status. If applicable, the Applicant must obtain written approval from the MDA-appointed legal counsel stating that the project qualifies for a tax-exempt status.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.23 Public Notice. 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.)

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.24 Acknowledgment of Intent to Proceed. Once the publication process is complete, a certified copy of the Applicant's minutes must be submitted showing their decision to proceed with the loan.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.25 Standard Application. The Applicant must fulfill the requirements of the standard application, which must be submitted to MDA for review and acceptance.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.26 Acknowledgment by the Executive Director. Before loan approval for remediation of a brownfield site, the Applicant must provide MDA with an executed copy of the brownfield agreement between the Applicant and the Executive Director of MDEQ.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.27 Proof of Ownership. Within thirty days after the brownfield agreement is executed and before any loan disbursements are released, the Applicant shall provide a copy of deed, clear certificate of title or other instrument certifying that the property is owned by the Applicant and subject to a brownfield site agreement.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.28 Use of Funds within One Year. During the brownfield clean-up process, the CAP funds must be expended within one year from the date of the loan approval, unless a waiver is granted upon good cause shown.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.29 Liability. The Applicant will be responsible for the operating and maintenance (O&M) of the brownfield site and for any post remediation monitoring required under the brownfield agreement.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.30 Reporting Amendments. Any amendments, changes or violations of the brownfield

agreement site must be reported to MDA and MDEQ within 10 business days.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.31 Contracts with Participating Parties. The applicant shall include in all contracts with Participating Parties a provision that each Participating Party agrees that any duly authorized representative of MDA and/or MDEQ shall, at all reasonable times, have access to any portion of the Project in which such Participating Party is involved until the completion of all brownfield agreement requirements.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.32 Other Funding Sources. If applicable, the Applicant must provide an award letter or documentation verifying other funding sources.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.33 General Loan Limitations.

A. An Applicant may borrow up to $1,000,000 per calendar year. Loans for the construction, repair and renovation of parks, swimming pools and recreational and athletic facilities shall not exceed $250,000 per project. Loans for remediation of brownfield agreement sites in accordance with Sections 49-35-1 through 49-35-25 shall not exceed $250,000 per site.

B. All loans shall have annual interest computed daily on the outstanding loan balance. Daily interest begins to accrue at the time of the first disbursement.

C. The Applicant will be required to expend all CAP loan funds within two years from the date of loan approval, unless a waiver is granted upon good cause shown. If the funds are not expended within the two years, MDA will have the option to adjust the loan to the actual disbursements and recall the remaining funds.

D. Before releasing any CAP Funds, the Applicant shall provide title insurance on all real property acquisitions or title opinion on all other projects from the Applicant's attorney.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.34 Loan Terms. The term of any loan must be reasonable and shall not exceed 20 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 all CAP loans is calculated according to the actuarial method. CAP loans that qualify for tax-exempt status shall be at 2% per annum; and taxable CAP loans shall be at 3% per annum. The interest on any loans converted from non-interest bearing loans on sound stages to other eligibility categories will be changed to an applicable interest-bearing rate. The loan term for fire trucks shall not exceed 10 years.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.35 Special Provisions. Under the 2005 Regular Legislative Session, $2,500,000 shall be

used only to provide loans to the counties and incorporated municipalities for remediation of a brownfield agreement sites under Sections 49-35-1 through 49-35-25.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.36 Audit. Funds provided under the CAP Loan Program are subject to audit by the State Department of Audit, MDA and/or MDEQ.

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.37 Penalties. An Applicant which fails to meet repayment obligations shall cause all or part of its sales tax allocation and/or homestead exemption reimbursement to be withheld and may be subject to other penalties. (Section 57-1-303(4))

Source: Miss. Code Ann. § 57-1-301 *et seq.* (Rev. 2008)

Rule 3.38 Delinquent Notice Process. Each month, invoices will be sent to communities with an active CAP 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 (Section 57-1-303(5)). 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. § 57-1-301 *et seq.* (Rev. 2008)

Part 4 Chapter 4: The Mississippi Development Infrastructure Program (DIP)

Rule 4.1 Purpose. The Mississippi Development Infrastructure Program (DIP), administered by the Mississippi Development Authority (MDA) is designed for making grants or loans to counties or municipalities (Local Sponsors) to finance infrastructure projects to promote economic growth 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 grants and loans to Local Sponsors is derived from the issuance of State bonds. DIP was enacted by the State Legislature during the Regular 1993 Session.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010)

Rule 4.2 Eligibility. The local governing authority of the county or municipality is eligible for the DIP program. Projects must be directly related to the construction, renovation, or expansion of a new or expanded industry.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010)

Rule 4.3 Eligible Projects. Eligible projects financed with DIP must be publicly owned. All contracts and purchases shall be made in accordance with normal bid and purchase laws of a municipality or county. Eligible projects include, but are not limited to:

A. Drainage systems
B. Energy facilities (power generation and distribution)
C. Sewer systems
D. Transportation facilities directly affecting the site, including roads, bridges, rail lines, or pipelines
E. Water supply systems
F. Marine structures
G. Land improvements

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.4 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. § 57-61-36 (Supp. 2010).

Rule 4.5 Application Requirements. The application that is submitted by a local sponsor must include:

A. Purpose of the proposed grant or loan
B. Resolution of authorization of the local sponsor to apply for DIP funds.
C. A Statement of willingness to comply with non-discrimination and equal employment opportunity requirements.

D. Current employment levels at the project site and estimated increase, if any, as a result of financing the project.
E. Submit a budget page showing the total cost of the project, a description of the local sponsor's investment in the project, and all public and private sources of funding that have been secured and that will be utilized exclusively for the project.
F. Timeline for implementation and completion of the project, evidencing an expeditious completion of the project
G. Last three (3) years of the company's audited financial statements or a letter of credit from a financially insured financial institution.
H. Engineering cost estimates and other pertinent documentation

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.6 Key Points.

A. Mississippi Development Infrastructure Program funds may not be used for working capital, gaming enterprises, general expenditures, which would normally be covered under a local sponsor's general operation budget, or for administrative expenses.
B. A limited amount of funds may be used for engineering/architectural cost. The amount of these professional services will limited to an amount not to exceed 10% of the DIP grant or loan award amount.
C. As such, all funds awarded must be spent for improvements within the scope of the
D. original project description as stated in the grant or loan application.
E. Additionally, if the recipients complete their project for less than the amount awarded,
F. the excess funds can be requested for additional project work as long as there is no change from the scope of the original project
G. No approved applicant shall be allowed to use excess funds to pay for the project costs that vary from the original project description.
H. 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. § 57-61-36 (Supp. 2010).

Rule 4.7 Application Process. Any local sponsor seeking funding should contact an MDA project manager with the EIB Division for an in-state company or the Global Division for an out-of-state company. After the initial evaluation, should the manager determine the project meets MDA standards, they will contact the Community Services Division (CSD) to discuss the project and check on availability of funds. Then upon request, the local sponsor should send the following information to CSD:

A. Project proposal
B. Engineering cost estimate
C. Budget page

Upon review of your proposal, MDA may issue a letter inviting a DIP application. The letter will state the amount of DIP funds that can be applied for and the requirements. An application will be made available to you at that time.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.8 Selection Process. The process used for evaluating, selecting, and funding applications is based on the following:

A. Eligibility
B. Project readiness
C. Company's financial condition

One (1) original of the application must be submitted to the Community Services Division of MDA, Development Infrastructure Program, Post Office Box 849, Jackson, MS 39205. DIP is open-ended and applications are invited as long as funds are available. It should be noted that the Executive Director of MDA may at his discretion commit DIP funds to projects prior to an application being submitted to MDA, if a specific project is involved and timing of the award would have direct effect on the location and expansion of the project.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.9 General Grant Terms. The program intent is to stimulate growth and economic development in the State. The maximum amount, which may be awarded to any one local sponsor, will be $150,000.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.10 Conditions for Disbursement of Funds.

A. A grant agreement or loan documents will be executed between the local sponsor and MDA.
B. All funds will flow through the local sponsor.
C. MDA will release DIP program funds for services rendered, or a reimbursement basis, for approved eligible cost of the project incurred.
D. Fund may only be drawn down once a month.
E. Local sponsors will have three (3) years from the date of the agreement to request reimbursement for DIP funds. Failure to implement and complete the project may result in the agreement being voided and funds de-obligated.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010).

Rule 4.11 Auditing and Monitoring. Funds provided under the Mississippi Development Infrastructure Program are subject to audit by the Mississippi State Auditor's office. Additionally, MDA will also monitor all projects to ensure compliance with the original application submitted. MDA intends to use up to three percent (3%) of the DIP funds available for staff to monitor projects and provide technical assistance.

Source: Miss. Code Ann. § 57-61-36 (Supp. 2010)

Part 4 Chapter 5: Hometown Mississippi Retirement

Rule 5.1 Official Community Support. In order to assure support of community leaders, a

resolution by the city governing authority endorsing the local retirement recruitment effort is required.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.2 Designation of a Sponsor. The program must have an official sponsoring organization with a retirement program director who will be accountable to the community and to the state. Examples of sponsoring organizations are chambers of commerce, economic development authorities, tourism development organizations and cities. The sponsor must be an official entity in order to be eligible for state funding.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.3 Funding. The sponsoring organization must commit a minimum of $20,000 per year for the local program (may include a portion of salary).

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.4 Quality of Life. The community's quality of life will be assessed by, but not limited to, the following:

A. Hospital: There must be a hospital within a 30-minute drive of the community and, preferably, closer.
B. Adequate Medical Services: Includes emergency services for stabilization and/or
C. referral/transport.
D. Available Housing: The community must have an adequate supply of both resale housing and rental housing sufficient to meet the needs of potential new retiree residents.
E. Adult Education: Opportunities through local community college, local university or branch of either.
F. Available Goods and Services: Shopping, restaurants, pharmacies, etc.
G. Recreation: Opportunities for retirees, such as golf, walking, exercising, etc.
H. Cultural Opportunities: Theater, art gallery, recitals, etc.
I. Crime Rate: Crime rate comparable to the national average.
J. Civic/Community Pride: Includes intangibles such as appearance or "curb appeal" of the entrances into and out of the downtown area; living conditions such as quality of housing, public safety, and environmental quality; economic equity and vitality; culture and heritage.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.5 Establishment of committees. Each city must have a general Retiree Attraction Committee to ensure the development of the following:

A. Community Inventory/Assessment (amenities, shortages)
B. Community Relations/Fundraising: The success of this program depends, to a large degree, on the support of churches, clubs, businesses, and local media.
C. Marketing and Promotion: A successful candidate for program certification should have in place:

(i). Marketing plan: The purpose of this plan is to focus on the type of retiree your community desires and how your program expects to achieve its goals. The plan should detail the mission, the target market, the competition, and analysis of your community's strengths, weaknesses opportunities and threats, and the strategies your program will employ to attain its goals.

(ii). Annual budget ($20,000 recommended for advertising, program materials and travel)

(iii). Retiree attraction brochure (must be approved by State HMR office and HMR Advisory Committee before printing).

(iv). Prospect package: While most cities will have some type of newcomers package, it is important that information sent to prospective retirees be relevant to their needs. Within 90 days of certification, the city must submit a complete retiree attraction package to the state office for approval (should include brochure, map, amenity brochures, available housing, and other as requested by potential retiree).

D. Connectors/Ambassadors – A group of retirees to the community committed to assisting the local program in its effort in retiree attraction and relocation. Must set up program to train group on how to make calls/tours of potential retirees.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.6 Community profile. The sponsor must develop a Community Profile similar to that used by many chambers of commerce. It will include such factors as crime statistics, local tax information, recreational opportunities, and housing availability.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.7 Retirement Community Yearly Self-Audit. Subsequent to certification the organization must commit to maintaining the following requirements:

A. Retiree Attraction Brochure with Reader Response Card

B. Establish/maintain nationwide toll free number and website must contain retiree attraction tab with pertinent information for relocating retirees

C. Maintain adequate funding to operate the local program and meet the certification requirements. This varies from each community depending on the level of promotion minimum $10,000.

C. Follow up leads with personal contact within two weeks of receiving the leads.

D. Annually sponsor/participate in a minimum of two of the following: environmental, social, educational, or community project/event.

E. Presence in a minimum of one national publication per year

F. Attendance at HMR meetings. The Retirement Director or designee must attend state meetings, using the state's July 1-June 30 fiscal year.

G. Marketing Activity: Retirement Director or designee must attend one out-of-state trade show each year or one documented marketing activity, which has received prior approval from the state office.

H. File quarterly reports to the Hometown Mississippi Retirement state by the stated deadline.

I. Submit annual program self-audit form, marketing plan, and annual budget to

Hometown Mississippi Retirement state office on or before August 1st of each year. (This will take effect August 1, 2004)

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.8 Entitled Benefits. As a Certified Hometown Mississippi Retirement city, each is entitled to have the benefit of assistance from the Mississippi Development Authority/Tourism Division Hometown Mississippi Retirement program in the form of but not limited to presence in the Mississippi Living Guide (official fulfillment brochure); presence in the Hometown Mississippi Retirement program website; advertising of and promotion in national mature market magazines; representation at national mature market consumer shows; bi-weekly notification of retiree leads for their area; eligibility to apply for a match-grant for promotional materials and advertising of their area.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.9 Results of Failure to Comply. As a result of the outcome of the annual self-audit, failure to comply with Hometown Mississippi Retirement certification requirements will result in the program being placed on probationary status for a period of six months.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.10 Meeting and Review. The Hometown Mississippi Retirement Program manager and a member of the Hometown Mississippi Retirement Program Advisory Committee will meet with the local program director to ascertain the nature of difficulties resulting in non-compliance status and to assist the director in the identification of and offer suggestions for the alleviation of non-compliance issues. A review by the Hometown Mississippi Retirement Program manager and the Hometown Mississippi Retirement Program Advisory Committee will be held after three months. Local and state officials may be notified.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.11 Termination of Certification. At the end of the probationary period, failure to be in compliance with the certification requirements will result in the termination of Hometown Mississippi Retirement certification status.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.12 Maintaining Happiness. As part of your community's retirement effort, an important aspect of the retiree assimilation process is for newcomers to feel welcome. This can be achieved by a number of methods:

A. Newcomer events such as picnics, dances, and golf tournaments;
B. Special organizations for in-migrant and in-place retirees;
C. Institute for Learning in Retirement in connection with your local college or university; and
D. Environmental, educational, and community projects sponsored by your connectors

such as a beautification project or adopt-a-school.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Rule 5.13 Suggested Program Enhancements.

A. Develop a professional portfolio. This book, to be kept in the sponsor's office, is to have short biographies of various professionals for retirees to consult when seeking professional service providers.

B. Offering a gift /gift package to visitors and a welcome gift/packet to relocated retirees.

C. Partnering with local real estate professionals to have an up-to-date real estate guide of local properties for sale or rent.

D. Make personal contact to leads within two - three weeks of sending information to ensure information was received, to answer questions, and to invite prospects to visit.

Source: Miss. Code Ann. § 57-64-1 *et seq.* (Rev. 2008).

Part 4 Chapter 6: Mississippi Single Family Residential Housing

Rule 6.1 Purpose. The Mississippi Single Family Residential Housing Fund (MSFRHF) was created as a revolving fund for the purpose of making loans to any agency, department, institution, instrumentality or political subdivision of the state; or any agency, department, institution or instrumentality of any political subdivision of the state; or any business, organization, corporation, association or other legal entity meeting criteria established by the Mississippi Development Authority (MDA) Community Services Division (CSD), through a hosing revolving loan program for the construction of single family residential housing for persons of low or moderate income. The legislation provided that MDA will administer the MSFRHF and funds shall be loaned to eligible projects for construction financing.

Source: House Bill 530, 1999 Regular Session

Rule 6.2 Program Objective.

A. Promote home ownership.

B. Provide low cost construction funds for housing production.

C. Expand the supply of decent, safe, sanitary, and affordable housing.

Source: House Bill 530, 1999 Regular Session

Rule 6.3 Allocation. The total amount of bonds issued to MDA was $5,000,000 less the issuance costs of $10,940.32. Therefore, $4,989,059.68 was available for the purpose of construction financing.

Source: House Bill 530, 1999 Regular Session

Rule 6.4 Lending Guidelines. The maximum and minimum loan amounts are $750,000 and $100,000, respectively. The loan amounts will be divided according to Participant's Pro Rata

Share. MDA, Fannie Mae, and MS Home Corporation (MHC) are considered as Participants under the program. The total funding sources for the program are as follows:

A. MS Home Corporation: $2,000,000;
B. MDA: $5,000,000, and;
C. Fannie Mae: $5,000,000.

The Ownership/Participation Percentages consist of 41.667% and 50%. Interest rates assigned by Participants are blended to leverage the cost and availability of construction financing. MDA's interest rate is assigned at 3% on funds disbursed. Loans may be for a term up to 2 years with a possible six months extension at the discretion of the Participants. The loans are made in the form of lines of credits and are reviewed for renewal on an annual basis. Loans that are funded shall not have a loan to value ratio that is greater than 80%.

Source: House Bill 530, 1999 Regular Session

Rule 6.5 Eligible Borrowers. Eligible borrower entities include the following:

A. For-profit corporations;
B. Nonprofit corporations;
C. Cooperatives,
D. Public agencies other than the MS Home Corporation,
E. General and limited partnerships;
F. Limited liability companies, and;
G. Sole proprietorships

Source: House Bill 530, 1999 Regular Session

Rule 6.6 Implementation and Assessment. MS Home Corporation serves as the Lead Lender that implements the program and is the primary point of contact for all loans funded under MSFRHF. MHC underwrites all loans to meet its credit requirements and other loan conditions, in addition, to Fannie Mae and MDA's guidelines. However, MHC submits to Participants loan documents for review and authorization before finalizing the loan approval. The documents are required to support underwriting review, assessment of ability to construct residential units, and credit analysis of the borrower. MHC submits to MDA and Fannie Mae by the 15th of each month, reports identifying the borrowers, outstanding loan balances, committed funds, total funded amounts, and repayment of funds. MDA requires the lead lender to remit the amount of interest due on loans on a monthly basis, Principal funds remains with MHC as long as the borrower's line of credit is active. The principal amount is only returned to MDA, when a line of credit is closed.

Source: House Bill 530, 1999 Regular Session

Rule 6.7 Fees. Fees are charged to cover administrative costs. All allowable fees are the obligation of the borrower.

Source: House Bill 530, 1999 Regular Session

Rule 6.8 Intended Borrower's. Loans are made to low to moderate-income families. The

maximum annual family income shall be equal to or less than 115% of median family income for the county as defined by the Department of Housing and Urban Development or $42,672.00, whichever is less.

Source: House Bill 530, 1999 Regular Session

Rule 6.9 Summary. As of July 31, 2005, there are twenty (20) borrowers of MSFRHF funds reporting on file. Presently, a total of $3,127,098.15 has been committed to borrowers. The remaining funds available are 3,222,669.07. A total of sixty-one (61) homes have been constructed.

Source: House Bill 530, 1999 Regular Session

Part 4 Chapter 7: HOME Program

Rule 7.1 Organizational Status (Legal Status) and Mission Requirements for CHDO Certification

A. Organized Under State/Local Law. An organization must show evidence to MDA either in its charter or articles of incorporation, that it is organized under state or local law.

B. Non-Profit Status. A tax exemption ruling from the Internal Revenue Service as evidenced by a 501(c) (3) or (c) (4) Certificate from the IRS.

C. Purpose of Organization. The organization's primary purpose must be the provision of decent housing that is affordable to low- income people. This must be evidenced by a statement in the organization's charter, articles of incorporation, by-laws, or resolutions.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.2 Additional Considerations.

A. Strategic Plan. CHDOs and CHDO aspirants are required to submit a comprehensive strategic plan to MDA. In order to be a comprehensive plan, the document submitted must address the following:

(i). The mission, goals, and vision of the organization
(ii). Whom you will serve
(iii). The organization's role in the community
(iv). The programs, services, and products you offer
(v). The resources needed to succeed
(vi). The best way to combine resources, programming and relationships to accomplish the organization's mission

B. F/A – 110 Conformity Statement. You will be required to submit a statement that commits your organization to comply with the federal regulations A-110. You may request a copy of this regulation from MDA if you need one. This statement must be on the organization's letterhead.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.3 Requirements. There are three specific requirements related to the organization's board, which must be evidenced in the organization's by-laws, charter, or articles of incorporation. These are:

A. Low Income Representation. At least ⅓ of the organization's board must be representatives of a low-income community served by the CHDO. The CHDO is required to certify the status of low-income representatives. There are three (3) methods to meet the HOME requirement that stipulates ⅓ of the organization's board be representatives of a low-income community serviced by the CHDO. If a potential board member fits one of the following descriptions, then he/she count towards fulfilling this requirement:

(i). The person lives in a low-income neighborhood where 51% or more of the residents are low-income. This resident does not have to be low-income. In order to qualify under this criteria, the board member must live in a low-income neighborhood where 51% or more of the residents are low-income. The board member does not have to be low-income. Neighborhood means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not encompass the entire area of the unit of a general local government.

(ii). The person is a low-income resident of the community. In order to qualify under this criteria, the board member must be a low-income resident of a community that the CDHO is certified to serve. Low-income is defined as 80% or less of area median family income.

(iii). The person was elected by a low-income neighborhood organization to serve on the CHDO board. The organization must be composed primarily of residents of the low-income neighborhood and its primary purpose must be to serve the interests of the neighborhood residents. Such organizations might include block groups, neighborhood associations, and neighborhood watch groups. In order to qualify under this criteria, the board member must be elected by a low-income neighborhood organization to serve the CHDO Board. The group must be a neighborhood organization and it may not be the CHDO itself. If the board member is qualifying under this criterion, a copy of the signed resolution from the neighborhood organization naming the individual as their representative on the CHDO is required.

B. Public Sector Limitations. No more than ⅓ of the organization's board may be representatives of the public sector. States or local governments who charter CHDOs may not appoint more than ⅓ of the board, and the board members appointed by the state or local government may not appoint the remaining ⅔ of the board members. If a person qualifies as a low-income person and a public official, their role as a public sector representative supersedes their residency or income status. Therefore, the official counts toward the ⅓ public sector limitation.

C. For Profit Limitations. If a CHDO is sponsored by a for-profit entity, the for-profit may not appoint more than ⅓ of the board. The board members appointed by the for-profit may not appoint the remaining ⅔ of the board members.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.4 Additional Considerations.

A. Board Stability. There should be stability/continuity of board members over the last several years.

B. Development Oversight. The Board should have a committee structure or other means of overseeing planning and development.

C. Board Skills. The Board members should have professional skills directly relevant to housing development. For example, real estate, legal, architectural, planning, construction, finance and management experience are all professional skills that are relevant to housing development.

D. Decision-Making. The Board should demonstrate the ability to make timely decisions using an appropriate process.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.5 Requirements for Sponsorship.

A. Control. The CHDO is not controlled, nor receives directions from individuals or entities seeking profit from the organization, as evidenced by the organization's by-laws or a Memorandum of Understanding.

B. Creation or Sponsorship by a For-Profit Entity. If sponsored or created by a for-profit entity, the for-profit entity's primary purpose does not include the development of management of housing, as evidenced in the for-profit organization's by-laws.

C. Freedom to Contract for Goods and Services. If sponsored or created by a for-profit entity, the CHDO is free to contract for goods and services from vendor(s) of its own choosing, as evidenced by its by-laws, charter, or articles of incorporation.

D. Sponsorship by a Religious Organization. If sponsored by a religious organization, the CHDO is a separate secular entity from the religious organization, with membership available to all persons, regardless of religion or membership criteria, as evidenced by its by-laws, charter, or articles of incorporation.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.6 Organizational Structure Requirements. The HOME Program establishes requirements for the organizational structure of a CHDO to ensure that the governing body or the organization is controlled by the community it serves. These requirements are designed to ensure that the CHDO is capable of decisions and actions that address the community's needs without undue influence from external agendas.

A. History of Serving the Community. The organization has a history of serving the community within which housing to be assisted with HOME funds is to be located, as evidenced by either documentation of at least one (1) year of experience in serving the community or for new organizations, documentation that its parent organization has at least one (1) year of experience serving the community.

B. Low Income Input. Input from the low-income community is not met solely by having low-income representation on the board. The CHDO must provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of affordable housing. The process must be described in writing and must be documented in the organization's by-law, resolutions, or

a written statement of operating procedures approved by the governing body. Each project undertaken by the CHDO should allow potential program beneficiaries to be involved and provide input on the entire project from project concept and site selection to property management. One way to accomplish this requirement is to develop a project advisory committee for each project or community where a HOME assisted project will be developed. Proof of input from the potential low-income program beneficiaries in all aspects of the project will be required for HOME project funding.

C. Clearly Defined Service Area. The organization must have a clearly defined geographic service area, which can be described and documented. CHDOs may serve individual neighborhoods or large areas. However, while organization may include the entire community in their service area (such as a city, town, village, county, or multi-county area), they may not include the entire state.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.7 Additional Considerations.

A. Needs. Current plans should be well grounded in an understanding of current housing conditions; housing needs, and need for supportive services. The organization should have an analysis of the local housing market and the housing needs of low-income households.

B. Relations. The organization should have a good reputation and a positive relationship with the community it services.

C. Local Government Relations. The CHDO should have a positive relationship with the local government(s) of the community(s) that it serves.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.8 Financial Management Requirements.

A. Conformance to Accountability Standards. The organization must conform to the financial accountability standards of 24 CFR 84.21, "Standards for Financial Management Systems", as evidenced by notarized statement by the board president or Chief Financial Officer (CFO), or a certification from a Certified Public Accountant (CPA), or a HUD approved audit summary.

B. No Individual Benefit. No part of a CHDO's net earnings (profits) may benefit any members, founders, contributors, or individuals. This requirement must also be evidenced in the organization's charter or articles of incorporation.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.9 Additional Considerations regarding Financial Management Requirements:

A. Audit. Audit information will be reviewed.

B. Budgeting. The organization should conduct annual budgeting of its operations and all activities and programs. It should track and report budget versus actual income and expenses.

C. Reporting. Financial reporting should be regular, current and sufficient for the board to forecast and monitor the financial status of the corporation.

D. Cash Flow Management. The organization should know its current cash position and maintain control over expenditures.
E. Internal Controls. The organization should have adequate internal controls to ensure separation of duties and safeguarding of corporate assets. There should be sufficient oversight of all financial activities.
F. Procurement/Conflict of Interest. The organization should have a conflict of interest policy governing board members, employees, and development activities, particularly in procurement of contract services and the award of housing units for occupancy.
G. Insurance. The organization should maintain adequate insurance, including liability, fidelity, bond workers compensation, property hazard and project. In regards to bonding provisions (surety bond), the organization shall obtain a minimum bonding of $75,000 to protect the interest of the organization and any entity, which shall award funds unto the organization. If funded, the CHDO is required to increase the surety bond to $150,000 for each principal.
H. Financial Stability. The current balance sheet and budget should indicate a sufficient, diversified and stable funding base to support essential operations.
I. Portfolio Financial Condition. If the organization has a portfolio of properties, they should be in stable physical and financial condition.
J. Liquidity. Whether the organization has liquid assets available to cover current expenses shall be considered, as well as whether the organization has funds available for predevelopment expenses or equity investments required for development.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.10 Capacity to Carry Out Activities. The organization must have demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by either experience of key staff that has completed similar projects to HOME funded activities or the organization should have contracts with consultants who have relevant housing experience to train key staff.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.11 Additional Considerations for Activities.
A. Portfolio. The organization's portfolio of projects and properties should evidence competent management and oversight.
B. Previous Performance. The organization should have exhibited competence with any previous CHDO activities.
C. Management Capacity. The organization's management should have the capacity and ability to manage additional development activities.
D. Procedures. There should be policies and procedures in place to govern development activities.
E. Project management. The organization should have procedures for monitoring the progress of a project and the capacity to monitor project-level cash flow and schedules.
F. Personnel. There should be staff that is assigned responsibilities for housing G. development and personnel policies and job descriptions should be clear.
G. Staff Skills. The strength of staff in the following areas shall be considered:
(i). Legal/financial aspects of housing development

(ii). Management of real estate development
(iii).Oversight of design & construction management
(iv).Marketing, intake
(v). Property management (if applicable)

H. Training. Staff should be encouraged to obtain training and develop skills.

I. Member involvement. The organization's membership should be active and in

J. Support of the organization's housing activities.

K. Use of consultants. To what extent the CHDO has access to and makes use of qualified development consultants shall be considered, as well as how these consultants interact with staff.

L. Funding access. The organization should have the ability to raise funds for the capital requirements of a project.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.12 MDA Reservations. MDA reserves the right to determine if the housing development experience and financial stability of the non-profit organization is adequate for certification and if the organization has the capacity to carry out HOME funded activities.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.13 Effective Period of CHDO Certification. In order to maintain a current state CHDO Certification, the CHDO must submit a complete application for funding through the MDA. The CHDO must be awarded grant funds. The certification period will be effective for the two (2) or three (3) year period of the contract. CHDOs will no longer be required to be recertified annually.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.14 The Consolidation Plan. Activities conducted by CHDOs must be consistent with the state's Consolidated Plan. The Consolidated Plan identifies housing and community development needs in the state's jurisdiction and provides long-term strategy for addressing those needs. The Consolidated Plan indicates the level of resources, which are allocated to each program. Each year the state must develop an Action Plan, which spells out which activities it will carry out and how much money will be spent in each area. The Consolidated Planning process is an opportunity for CHDOs to provide input to the state on how its funds are allocated.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Rule 7.15 How to Apply for CHDO Certification.

A. Complete the CHDO Certification Application, including all requested documentation forms.

B. Submit one (1) original and one (1) copy of the entire application. The application should be bound with a binder clip, 3-ring binders or any other forms of binding.

C. The application may be mailed or hand delivered to the address below.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

Part 4 Chapter 8: Emergency Shelter Grants Program

Rule 8.1 Program Overview. The Emergency Shelter Grants Program (ESG) is authorized by the Stewart B. McKinney Homeless Assistance Act of 1988 as Amended. Under the Emergency Shelter Grants Program, the Department of Housing and Urban Development (HUD) allocates funds by formula grant among eligible states and units of general local government. States and units of local government may use the ESG funds for renovation, rehabilitation or conversion of buildings for use as emergency shelters for the homeless, for the payment of operation and maintenance expenses, for the provision of essential services to homeless clients, and for homeless prevention activities. The program is designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as to prevent homelessness. The State of Mississippi proposes in the 2011 Emergency Shelter Grants Program to use the funds for operation and maintenance expenses. ESG funds will be distributed statewide to eligible local units of government and non-profit organizations that operate homeless shelters. Recaptured or De-obligated ESG funds may be used to supplement State Administration, to supplement existing projects which may require additional funds, to fund other eligible applicants, or to fund ESG eligible activities.

Source: 42 U.S.C. 11301

Rule 8.2 Program Objective. The ESG Program funds will be made available to address the following:

A. Shelter facility improvements (minor), operation and maintenance expenses
B. Equipment purchase is limited to $5,000.00 per unit

The use of ESG funds for the purchase of motor vehicles is prohibited.

Source: 42 U.S.C. 11301

Rule 8.3 Administration. The Governor designated the Mississippi Development Authority (MDA) as the agency responsible for administering ESG funds.

Source: 42 U.S.C. 11301

Rule 8.4 2011 Allocation. The 2011 ESG funds to be made available to the State of Mississippi will be published in the Federal Register. The One-Year Action Plan is based on an allocation of $2,002,150. This allocation is contingent upon the availability of funds to the State of Mississippi from the U. S. Department of Housing and Urban Development. The State will reserve less than five percent ($100,000) to assist in the administration of ESG funds. If requested, the State may make available administrative funds to grantees, not to exceed two percent of the grant requested.

Source: 42 U.S.C. 11301

Rule 8.5 Application Submission Date. The Application Submission date will be May 20, 2011, no later than 4:00 p.m. Applications were submitted to Community Services Division, 501 North West Street, Suite 5-A, Jackson, Mississippi. No applications were accepted after 4:00 p.m. MDA's time clock was the clock used for meeting the application submission deadline.

Source: 42 U.S.C. 11301

Rule 8.6 Eligible Applicants. Local units of government and non-profit organizations that operate existing homeless shelters are eligible to submit applications in the ESG Program. Non-profit agencies applying for ESG funds to carry out homeless assistance must obtain certification that the project is approved by the local unit of government, per Section 42 of the McKinney Act as amended. The City of Jackson, being an entitlement city, receives a direct allocation of ESG funds from HUD. Therefore, applications from non-profits in the City of Jackson will not be accepted for funding by the Community Services Division.

Source: 42 U.S.C. 11301

Rule 8.7 Match Requirements. Applicants must provide matching funds. Pursuant to 24 CFR Part 576 and 42 U.S.C. 11375 the ESG Program requires that ESG funds provided by HUD be matched with an equal amount of funds from other sources. The match amount may include the amount of funds from other sources, the value or fair rental value of any donated material or building (this source can only be utilized as match one time), the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services (at a rate of $5.00 per hour) contributed by volunteers to carry out the program of the recipient.

Source: 42 U.S.C. 11301

Rule 8.8 Grant Size. The maximum grant size is $75,000 and there is no minimum grant size. The State reserves the right to adjust the amount awarded, based on the amount of funds available.

Source: 42 U.S.C. 11301

Rule 8.9 Threshold Requirements.

A. Applications submitted by a local unit of government must include a copy of the Resolution authorizing submission of this application. The Resolution must be adopted by the local unit of government and must be signed and dated by the local unit of government's Chief Elected Official.

B. Applications submitted by non-profit organizations operating homeless shelters must include a copy of the authorizing resolution. The Resolution must be adopted by the non-profit organization's Board and must be signed and dated by the President of the Board.

C. Applications from non-profit organizations operating homeless shelters must also include a letter from the local unit of government approving the submission of the application. The letter must refer to the current ESG Program Year for which the application is being submitted and be signed by the Chief Elected Official.

D. To be eligible for 2011 funds, at least 80% of the 2010 project funds must be drawn in the IDIS system at the time an application is submitted. Any project funded with 2009 funds must be expended and a closeout package submitted to be eligible to apply for 2011 funds. And if funded, no funds may be drawn down on the new grant until the previously funded ESG project is closed out with CSD.

E. Match requirement must be documented in the application. The matching amount must be equal to the amount of ESG funds being requested. The match amount may include funds from other sources, the value or fair rental value of any donated material or building (this source can only be utilized as match one time), the value of any lease on a building, any salary paid to staff to carry out the program, and the value of the time and services (at a rate of $5.00 per hour) contributed by volunteers to carry out the program. If match includes funds from other sources or the value of the time and services contributed by volunteers to carry out the program, applicants must provide a copy of the Memorandum of Understanding or Agreement, or letter of support from the entities providing match. This documentation must identify the match type, match amount and must cover the grant Program Year time period for this application. If a facility is to be used as matching funds, a recent appraisal (less than two years) of the facility must be included. A current appraisal is also required if the local unit of government is submitting an application on behalf of an existing shelter. If the value of any lease on a building is to be used as matching funds, a copy of the lease information indicating the lease amount must be included. If donated materials are to be utilized as match, documentation from the donor indicating the type of materials and their value, and the date or proposed date of the donation must be submitted in the application.

F. Applicants must not have any unresolved audit or monitoring findings. In addition, if a community or organization has ANY CSD concerns that have not been resolved, then CSD may not review the application and the application may be disqualified from consideration in funding. This includes but is not limited to, failing to submit required reports, etc.

G. Contracts will be sent out after the award is made. Environmental clearance and special conditions clearance must be completed within four (4) months of the award date or the contract may be voided. No request for cash will be processed until the environmental clearance is granted. Waivers to the four (4) months rule may be granted on a case-by-case basis. The Division Director will be the only signature authority for waivers.

H. Any application that has been prepared by an application preparer who is involved in a pending debarment or suspension proceeding before a state or federal agent shall not be reviewed until such time as the debarment proceeding has been finally resolved. Additionally, no person who is involved in a suspension or debarment proceeding shall be allowed to administer a CDBG, ESG or HOME project until such time as the suspension or debarment process or finding is resolved.

I. The shelter board must be composed of at least one (1) homeless or former homeless person in a decision-making capacity.

Source: 42 U.S.C. 11301

Rule 8.10 Activities. Efforts will be made to maintain the operation of existing facilities that have a demonstrated history of efficient management, including services to the hard-to-reach homeless. The following information will be required in each funding request:

A. The nature and extent of homeless need for emergency shelter within the applicant's jurisdiction and the manner in which the applicant proposes to address the need;
B. Identification of agencies proposed to provide services through the program, any on-going services they provide to the homeless population, and a description of the agencies' relationship to the local government;
C. A description of proposed program activities and the budget request relating to: payment of maintenance, operation, insurance, utilities, and furnishings;
D. A description of the source(s), amount(s), and status of matching funds;
E. The extent to which the proposed activities will carry out the objectives established by the State;
F. The applicant's method and timeframe to implement the proposed activities; and
G. The applicant's certification that activities assisted through the program will comply with applicable regulations regarding historic properties and environmental considerations.

Source: 42 U.S.C. 11301

Rule 8.11 Distribution. The ESG funds will be distributed in accordance with the State's Consolidated Plan. The selection process is based on the possible award of 150 points on the ESG Application. The State intends to distribute ESG funds statewide to eligible applicants using a competitive application process. The State has designed specific criteria that will be used to rate the applications. Points will be assigned to each rating criterion based on the data provided in the application and consistent with the needs in the Consolidated Plan. Each application will stand on its own.

Source: 42 U.S.C. 11301

Rule 8.12 Applicant Obligations. Applicants may be contacted for clarification of the information presented in the application, but additional information that can affect the rating of the project cannot be submitted. Applicants with the highest scores will be funded until funds are exhausted. In case of a tie, the application that has the highest poverty rate for the entity's respective county will rate higher. The State will use the most recent rate. If a tie still exists, the unemployment rate for the entity's respective county will be used. The Community Services Division will also reject any applications if they are incomplete or do not provide desired services.

Source: 42 U.S.C. 11301

Rule 8.13 Site Visits. Site visits will be conducted to verify information submitted in the application for applicants receiving the highest ratings. A site visit does not imply or denote that an applicant will be funded. The State reserves the right to decrease the points awarded in any rating factor based on information gained during a site visit. The following Habitability Standards need to be met for applicant to receive funding:

A. Structure and Materials: The shelter building should be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents.
B. Access: The shelter must be accessible, and there should be a second means of exiting the facility in the case of emergency or fire.

C. Space and Security: Each resident should have adequate space and security for themselves and their belongings. Each resident must have an acceptable place to sleep.
D. Interior Air Quality: Each room or space within the shelter/facility must have a natural or mechanical means of ventilation. The interior air should be free of pollutants at a level that might threaten or harm the health of residents.
E. Water Supply: The shelter's water supply should be free of contamination.
F. Sanitary Facilities: Each resident should have access to sanitary facilities that are in proper operating condition. These facilities should be able to be used in privacy, and be adequate for personal cleanliness and the disposal of human waste.
G. Thermal-Environment: The shelter/facility must have any necessary heating/cooling H. facilities in proper operating condition.
H. Illumination and Electricity: The shelter/facility should have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There should be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
I. Food Preparation: Food preparation areas, if any, should contain suitable space and equipment to store, prepare and serve food in a safe and sanitary manner.
J. Sanitary Conditions: The shelter should be maintained in a sanitary condition.
K. Fire Safety-Sleeping Areas: There should be at least one working smoke detector in each occupied unit of the shelter facility. In addition, smoke detectors should be located near sleeping areas where possible. The fire alarm system should be designed for a hearing-impaired resident.
L. Fire Safety-Common Areas: All public areas of the shelter must have at least one working smoke detector.

Source: 42 U.S.C. 11301

Rule 8.14 Selection Process. The selection process is based on the awarding of points. Specific selection criteria will be used to rate applications. All applications will be rated and points assigned to each based on data provided in the application. Thus, it is important to provide complete and concise information for all questions.

Source: 42 U.S.C. 11301

Rule 8.15 Complete Questionnaire. In order to receive points, all questions must be answered completely. If the space provided to answer questions is not sufficient and the applicant needs additional space to answer a question in its entirety, the applicant must clearly reference the location of this additional information (i.e., see Attachment A, See By-laws, page 3). Applicants must be very specific when indicating additional space is needed to answer any questions.

Source: 42 U.S.C. 11301

Rule 8.16 Rating Factors. The rating factors and maximum points for the Application for the 2011 Emergency Shelter Grants Program Year are as follows:

Rating Factor	Points
Target Population	35
Program Design	20

Applicant Capacity	50
Documented Need	20
Community Coordination	25
Total Points Available	150

Source: 42 U.S.C. 11301

Rule 8.17 Explanation of Rating Factors.

A. Target Population: Applications that target two or more of the following populations will receive a maximum of 35 points. Applications that target only one population will be rated based on the scale below. In order to receive points, documentation that indicates the applicant's Target Population must be submitted. Applicants may submit marketing material, Articles of Incorporation, By-laws or some formal document containing the organization's Mission Statement or Purpose. (Applicants must also specifically identify which document contains the information and provide the page numbers). Local units of government must submit this information on behalf of the shelters they will be assisting with ESG funds.

Category	Points
Families	30
Victims of Domestic Violence	25
Veterans	20
Others	15
Children	10
Elderly	5

B. Program Design: Applicants will be rated on how their programs are designed to address the items listed below regarding their targeted population(s). In order to receive points the applicant must submit a formal copy of its Policies and Procedures document or Operational Manual describing these activities. Applicants must specifically identify which document contains the information and provide the page number.

(i). The hard to reach homeless (outreach activities)

(ii). The provision of supportive housing and ultimately permanent affordable housing

(iii). The utilization of clients in the construction, renovation, maintenance or operation of the shelter facility pursuant to 24 CFR 576 (b).

(iv). The inclusion of at least one current or former homeless person serving in a policy-making capacity pursuant to 24 CFR 576 (b).

Criteria	Points
Program design includes 4 Areas	20
Program design includes 3 Areas	5
Program design includes 2 Areas of less	0

C. Applicant Capacity:

(i). Applications will be awarded points based on the applicant's current ability to

operate homeless programs. Applicants will be rated on their personnel's ability to perform administrative and operational functions. In order to receive points the applicant must submit a formal copy of its Policies and Procedures document or Operational Manual that describes the activities listed below. (Applicants must also specifically identify which document contains the information and provide the page number).

i. Client application process and procedures for intake
ii. Client tracking system (what type of statistics does your organization obtain and maintain on your clients, i.e., income information, educational level, employment status, health information, household size, marital status, gender, age, average length of stay, chronic homelessness, substance abuse history, etc)
iii. Client follow-up system (location and condition of client after leaving shelter)
iv. Financial accounting system
v. Policy regarding the termination of assistance and grievance procedure pursuant to 24 CFR Part 576.56 (a) (3). Applicants must have in place a policy that governs the termination of assistance provided by ESG funded activities to participants who violate program requirements. The policy must provide the procedure that governs the termination and grievance process.

Criteria	Points
Organization has standard operating procedures for all 5 Areas	15
Organization has standard operating procedures for 4 Areas	5
Organization as standard operating procedures for less than 4 Areas	0

(ii). Applicant's ability to provide and/or coordinate supportive services for clients. In addition to providing overnight sleeping accommodations, applicants are encouraged to provide supportive services to clients either directly or through partnering with other entities. In order to receive points, marketing materials, Articles of Incorporation, By-laws containing Mission Statement or Purpose, Policies and Procedures document or Operational Manual, must be submitted for documentation. If services are provided by another entity, a copy of the Memorandum of Understanding or Agreement, or letter of support with these entities indicating the provision of services must be submitted. The Memorandum of Understanding or Agreement, or letter of support, must cover the grant Program Year period.

Criteria	Points
Job training related services are available	5
Child care related services are available	5
Counseling/Therapy services are available	5
Medical related services are available	5
Transportation services are available	5
Budgeting/Financial Management Training services are available	5

(iii). Applicant has previous experience administering a state or federal grant

program. In order to receive points, applicants must identify the grant received and submit a copy of the grant award letter. Applicants will receive points based on the following:

Criteria	Points
Applicant has experience administering a grant program	5
Applicant does not have experience administering a grant program	0

D. Documented Need: Applicant sufficiently documents need for services proposed in application. Please include the following information (information must be based on a January through December calendar year):

(i). Homeless statistical information for applicant's locale
(ii). The overall number of individuals served for last year (for any services provided)
(iii).The number of individuals from the applicant's specific target population served last year (for any services provided)
(iv).The number of nights of sleeping accommodation services provided last year
(v). The number of nights of sleeping accommodation services provided last year for individuals in the applicant's target population
(vi).The average length of stay of clients last year
(vii).The number of other shelters in applicant's locale
(viii).The number of other shelters in applicant's locale that serve the same target population as the applicant
(ix). Information regarding economic conditions in the applicant's locale
(x). Information regarding the levels of entitlement assistance in the applicant's locale

The above listed items must be addressed in the Documented Need Narrative for points to be awarded. Applicants may certainly include any additional information that they deem necessary.

Criteria	Points
Applicant clearly identifies need for proposed services	20
Applicant does not clearly identify need for proposed services	0

E. Community Coordination: Applicant will provide additional needed services for their clients from resources in the community. To receive points, applicants must provide a copy of the Memorandum of Understanding or Agreement, or letter of support with each activity indicating coordination and the provision of services. The Memorandum of Understanding of Agreement, or letter of support, must cover the grant Program Year period.

Criteria	Points
Applicant has 4 or more community resources	25
Applicant has 3 community resources	15
Applicant has 2 community resources	5
Applicant has less than 2 community resources	0

Source: 42 U.S.C. 11301

Rule 8.18 Review Process. The ESG Application Review process will consist of the following: first level review, second level review, and supervisory sign off. This ensures a fair and competitive process.

Source: 42 U.S.C. 11301

Rule 8.19 Federal Requirements. All recipients will be required to comply with certain federal and state requirements. The following briefly describes major requirements that may apply.

A. The requirements of OMB Circular No. A-87, *Cost Principles for State and Local Governments*, which addresses allowable cost shall apply to State recipients or any governmental sub recipient receiving ESG funds

B. Non-profit organizations must follow the requirements of:

(i). OMB Circular No. A-122, Cost Principles for Non-Profit Organizations

(ii). 24 CFR Part 84, Grants and Agreements with Institutions of Higher Education, Hospital, and other Non-Profit Organizations

(iii). 24 CFR Part 84.21(d), Bonding and Insurance

(iv). 24 CFR Part 84.21(a), Standards for Financial Management Systems

(v). 24 CFR Part 84.51, Monitoring and Reporting Program Performance, Paragraph 2

(vi). 24 CFR Part 84.40-84.50, Procurement Standards

(vii). 24 CFR Part 84 or 84, Conflict of Interest

C. Recipients are responsible for audit costs. Audits must be conducted in accordance with:

(i). 24 CFR Part 44, Non-Federal Governmental Audit Requirements, and;

(ii). OMB Circular A-133, Audits of Institutions of Higher Education and other Non-Profit institutions.

D. Local units of government must follow the requirements for procurement of:

(i). MDA (CSD) Policy Statement #94-002

(ii). 24 CFR Part 85,

(iii). State of Mississippi Procurement laws, or

(iv). Mississippi Development Authority requirements, whichever one is more stringent.

E. All contracts for ESG funds are subject to audit in accordance with OMB Circular A-133.

F. ESG funds from each federal fiscal year (i.e., the allocation and any reallocated funds from the particular federal fiscal year appropriated) will be closed out when all the requirements of 24 CFR Part 576.85, Closeouts, have been met.

G. Each applicant must establish and maintain sufficient records to enable the State to determine whether the applicant has met the requirements of 24 CFR Part 576.87, Recordkeeping.

H. Applicants must comply with the requirements of 24 CFR Part 576.79, Conflict of Interest.

I. The federal requirements of 24 CFR Part 576.51, Displacement, Relocation, and Acquisition, concerning relocation must be followed at all times when a unit to be rehabilitated is occupied prior to the beginning of construction to rehabilitate the unit.

Source: 42 U.S.C. 11301

Part 4 Chapter 9: Community Development Block Grant Programs

Rule 9.1 National Objectives. The State Community Development Block Grant (CDBG) program was established to aid in the development of viable communities that provide their residents with suitable living environment and economic opportunities. Mississippi's State CDBG program is designed to be consistent with this primary objective by providing funds for local projects with activities that meet one of the following national objectives of the Community Development Act of 1974, as amended:

A. Benefits to Low/Moderate Income Persons;
B. Give maximum feasible priority to activities that will benefit low- and moderate-income persons;
C. Slum or blight;
D. Aid in the prevention or elimination of slum or blight;
E. Urgent Needs
F. Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs.

Source: 24 CFR 570.480-497

Rule 9.2 State Objectives. The State has designed the program to be consistent with national objectives and to address economic and community development needs of the citizens of Mississippi. Several state objectives have been established to meet this purpose:

A. Increase local capacity to deliver resources
B. Streamline procedures for implementing grants
C. Encourage early completion of ongoing grants
D. Encourage MBE/WBE and Section 3 participation in the program
E. Assist non-entitlement units of government increase business and employment opportunities
F. Assist non-entitlement units of government improve the availability and adequacy of basic community facilities
G. Assist non-entitlement units of government improve the availability and adequacy of community service facilities and self help activities
H. Ensure adherence to all applicable federal and state regulations by all parties involved in projects funded with these funds

Source: 24 CFR 570.480-497

Rule 9.3 Adjustments. The State reserves the right to make adjustments to the amount designated for any program category based on the demand created by the applications. The CDBG Program allows for one percent of the yearly allocation to be used by the State for technical assistance. However, MDA intends to use the full amount allowed by HUD regulations as State Administration. These funds will be used in accordance with HUD CPD Notice 99–09.

Source: 24 CFR 570.480-497

Rule 9.4 Transfer of Funds. The State reserves the right to transfer any unobligated funds into any category to help meet the timely distribution requirement. If HUD makes a special allocation to the State, the State reserves the right to fund any current application from the special allocation. Should the State's HUD allocation be adjusted, the State will adjust program categories.

Source: 24 CFR 570.480-497

Rule 9.5 Maximum Grant Size. The State reserves the right to adjust maximum grant size, local match requirements, job creation goals, cost per jobs, and certain threshold requirements in order to assist local communities with projects on a case-by-case basis due to a State and/or Federal natural disaster declaration.

Source: 24 CFR 570.480-497

Rule 9.6 Application Costs. Application preparation cost may be awarded to funded applications as a pre-award cost.

Source: 24 CFR 570.480-497

Rule 9.7 Receipt of Program Income. The State will receive program income from prior CDBG awards. The State requires communities to return program income generated to the State; however, MDA may permit the local units of government to retain program income to continue the activity from which such income is derived on a case-by-case basis.

Source: 24 CFR 570.480-497

Rule 9.8 Program Income Fund. Program income returned to the State will be placed in a Program Income Fund and distributed for eligible CDBG activities as approved by MDA. Up to 2% of these funds may be used for state administrative purposes.

Source: 24 CFR 570.480-497

Rule 9.9 Rules, Policies, and Other Requirements. All rules, policies, and other requirements of the State's CDBG program are applicable to the program income funds received and distributed by the State.

Source: 24 CFR 570.480-497

Rule 9.10 Recaptured Funds. The State will recapture funds previously awarded to a CDBG recipient for reasons such as, failure to satisfy a national policy objective, failure to comply with contractual conditions, or if awarded funds are not expended prior to the expiration of the grant contract. The State may allocate any recaptured funds into any program category. The State

reserves the right to substitute recaptured funds for previously committed funds from any year in order to hasten completion of a program year. Any requests for supplemental funds will be considered on a case-by-case basis with funds granted only in those instances where the State can readily determine that additional funding is justified. Grant ceilings are not applicable when considering the awarding of these funds.

Source: 24 CFR 570.480-497

Rule 9.11 Eligible Applicants. All cities and counties, except the entitlement cities of Biloxi, Gulfport, Hattiesburg, Jackson, Moss Point, and Pascagoula are eligible applicants for funding under Mississippi's CDBG program.

Source: 24 CFR 570.480-497

Rule 9.12 General Criteria.

A. Applicants may be contacted for clarification of information presented in the application after submission, but additional information that can affect the rating of the project cannot be submitted.

B. A single activity should have a contiguous group of beneficiaries. Multiple activities may be considered on a case-by-case basis.

C. Water projects that have fire protection as the primary purpose will be classified as a fire protection project unless there are major problems with the water system.

D. If matching funds are being sought through another program (ARC, DEQ, RDA, EDA, CAP, etc.), applicants are required to submit evidence of the matching application.

E. The State will review and rate all applications, but no award will be made (if F. applicable) until the final commitment and/or approval of matching funds. Applicants will have until _____ to secure final commitment and/or approval of matching funds. If by that time final commitment and/or approval is not in place, the State will remove the application from funding consideration.

F. Swimming pools will not be eligible for funding under the Self-Help category.

G. CDBG funds may not be used for general operating and maintenance expenses. The general rule is that any expense associated with repairing, operating, or maintaining public facilities, improvements and services is ineligible. Examples of operating and maintenance expenses that are generally ineligible include: maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, center for persons with disabilities, parking and other public facilities and improvements. Other examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of grass in city or county parks, and the replacement of street light bulbs. This is taken from the State Community Development Block Grant Program’s Guide to National Objectives and Eligible Activities for State CDBG Program pages 2-112 and 2-113.

Source: 24 CFR 570.480-497

Rule 9.13 Surveys. Project area and town wide surveys will be accepted. If using a survey to determine the low- and moderate-income benefit, it must have been conducted after **April 1, 2008.** Applicants using surveys to indicate population and income information must use the State approved Grant Survey Form provided by MDA and must include the signed Grant Survey Summary and Disclosure Form in the application. No other survey forms will be allowed unless the content is approved by MDA prior to the survey being taken. Surveys that do not meet the 80% response rate will not be accepted. Surveys must contain an adult household member signature or be initialed by the adult household member in order to be counted. Surveys will not be allowed/counted if they are not signed/initialed by the adult household member.
If surveys were used for determining low- and moderate-income benefit, the application preparer is responsible for the surveys being correlated to a legible map and in proper order.

Source: 24 CFR 570.480-497

Rule 9.14 Maps. A general project area map, showing the general location of the proposed project, with a more detailed insert (detailing project location), is required to be submitted with the application. Other map requirements are discussed in the application. The survey map must accompany the application.

Source: 24 CFR 570.480-497

Rule 9.15 Purpose. The purpose of the Emergency category is to provide funding for any eligible CDBG activity necessary to address a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

Source: 24 CFR 570.480-497

Rule 9.16 Available Funds/Grant Size. If funds are available from any available program funds then awards will be made for Emergency projects. The maximum grant size shall be $100,000. The maximum amount of Administrative funds for the Emergency Category shall be $1,500 including Application Preparation. Application Preparation fee will be limited to $500 per project.

Source: 24 CFR 570.480-497

Rule 9.17 Submission Dates. The State will accept FY 2011 Emergency Public Facilities applications beginning August 2, 2011.

Source: 24 CFR 570.480-497

Rule 9.18 Threshold Requirements. Applicants must have no unresolved audit or monitoring findings. In addition, if a community has ANY CSD concerns that have not been resolved, then CSD may not review the application and the application may be disqualified from consideration in funding. This includes but is not limited to delinquent loan payments, failing to submit

required reports, etc. Applications that are incomplete will not be reviewed and will be placed on the bottom of the list of request until such time as all information is submitted. Applicants that have an ongoing CDBG grant over three years old must get permission from the State to apply for an FY 2011 Emergency grant. In addition, applicants who have an ongoing Emergency Public Facilities or Urgent Needs grant will not be eligible to submit an additional Emergency CDBG Request.

Source: 24 CFR 570.480-497

Rule 9.19 Application Process. Applicants must first contact the State regarding the submittal of an Emergency application. The initial contact should be by letter or fax and should address the following:

A. The problem (or threat) and the proposed solution

B. A cost estimate and documentation that reflects efforts to secure other funds was not successful

C. How the situation poses an imminent threat to the health and welfare of affected residents, and

D. Community's budget for previous two years.

If the condition meets the Emergency criteria and the applicant finds it preferable, pre-agreement costs can be negotiated with the local unit of government. No application may be submitted without prior approval. Applications will be considered in the order received until all funding is exhausted. Benefit to low- and moderate-income persons is the preferred national objective; however, it is possible to receive funding under the Urgent Needs national objective. Projects receiving Emergency funds must be closed out within twelve months of award receipt, or funds will be recaptured**.** Based on MDA's evaluation of the request, a letter may be issued inviting a CDBG Emergency application. The letter will state the amount of CDBG funds that may be requested. The local unit of government will be given 45 days to submit the application.

Source: 24 CFR 570.480-497

Rule 9.20 Selection Process. Requirements for funding consideration include the following:

A. The problem (or threat) must be an eligible community development need that has a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community.

B. The situation, if not addressed, must be a permanent threat to public health or welfare.

C. The application must address other financial resources not being available to meet such needs, including a copy of the applicant's latest budget.

D. The situation addressed by the applicant must be unanticipated and beyond the control of the local government.

E. The application must include documentation on the beneficiaries, including low- and moderate-income persons.

F. The application must include documentation that the emergency occurred or was discovered within the last 18 months.

Source: 24 CFR 570.480-497

Part 4 Chapter 10: Public Facilities—Community Self-Help Program

Rule 10.1 Purpose. The Community Self-Help program is an effort to help communities address needs such as water, wastewater, downtown improvements, recreation (swimming pools and general maintenance are not eligible) and other CDBG eligible activities. The Community Self-Help program is a resource for small communities to meet local needs with less money. Self-Help is the development and use of a community's own resources (human, material and financial) to solve problems for less cost. This approach begins with the answer to a key question, "What can we afford?" and then initiates a local focus of control based on the applicant's design and plans for solving the problem. Self-Help refers to the collective effort of people working together to create or improve a service or facility (for example, a water system) that they will use in common, and which is not exclusively owned by any one person or household. Self-Help and volunteerism are not synonymous. Self-Help includes the use of volunteers as one technique among many that can reduce the cost of a needed community improvement. Self-Help is an exercise in communities developing and building their own capacity to come together to solve problems in a collective way.

Source: 24 CFR 570.480-497

Rule 10.2 Available Funds/Grant Size. A total of up to $400,000 has been set aside for the Community Self-Help program. The maximum grant size is $100,000. The maximum amount of Administrative funds for the Self-Help Category shall be $5,000 including Application Preparation. Application Preparation fee will be limited to $1,500 per project.

Source: 24 CFR 570.480-497

Rule 10.3 Submission Date. Assessment forms will be accepted beginning August 2, 2011. The Community, Local Government, and Financial Information Assessment forms must be completed and sent to MDA. After staff review, MDA will make a decision whether or not to invite an application. Only invited applications will be considered due to the limited amount of funds available. The letter inviting an application will state the amount of CDBG funds that may be requested. The local unit of government will be given 45 days to submit the application.

Source: 24 CFR 570.480-497

Rule 10.4 Threshold Requirements. Applicants must have no open Public Facilities, Emergency/Urgent Needs, Planning or Self-Help grants and have no unresolved audit or monitoring findings. In addition, if a community has ANY CSD concerns that have not been resolved, then CSD may not review the applications and the application may be disqualified from considerations in funding. This includes but is not limited to delinquent loan payments, failing to submit required reports, etc. All projects must benefit a minimum of 51% low and-moderate income persons and show a 30% cost savings. Swimming pools will not be eligible for funding under the Self-Help category. This includes construction or rehabilitation of swimming pools.

Source: 24 CFR 570.480-497

Rule 10.5 Selection Process. Applications will be evaluated on the basis of feasibility, readiness, capacity and how the project fits into the overall improvement efforts of the community.

Source: 24 CFR 570.480-497

Part 4 Chapter 11: Economic Development—Public Improvements

Rule 11.1 Purpose. The purpose of the CDBG Economic Development Public Improvements category is to assist units of local government in the funding of eligible infrastructure improvements in the support of better paying private sector jobs; Projects having retained jobs and those creating public sector jobs shall be reviewed on a case-by-case basis and if funds are limited, these type projects will have a lower priority for funding. The use of these funds is directly associated with the creation or retention of jobs of which at least 51% must be low- and moderate-income. Each project will be reviewed for eligibility on a case-by-case basis.

Source: 24 CFR 570.480-497

Rule 11.2 Available Funds/Grant Size. The State will set aside $12,600,000 to provide funding for eligible CDBG economic development activities. A maximum grant size of $650,000 and a minimum of $100,000 will apply to all applicants. Projects associated with creating 250 or more jobs may be eligible to receive a maximum of $1,000,000. There will be no increase of grant size for joint applicants. Upon receipt of written justification, MDA reserves the right to adjust the maximum grant size, local match requirement, job creation goals, and cost per job with economic development projects on a case-by-case basis. The maximum amount of Administrative funds for the Economic Development grant category shall be $40,000 including application preparation. Application preparation fee will be limited to $5,000 per project.

Source: 24 CFR 570.480-497

Rule 11.3 Submission Date. CSD will accept proposals throughout the year**.**

Source: 24 CFR 570.480-497

Rule 11.4 Threshold Requirements

A. Applicants must have no unresolved audit or monitoring findings. In addition, if a community has ANY CSD concerns that have not been resolved, then CSD may not review the application and the application may be disqualified from consideration in funding. This includes but is not limited to delinquent loan payments, failing to submit required reports, etc.

B. The proposed activities must be associated with creating and/or retaining 20 or more jobs. However, Small Governments may be considered for funding with a minimum of 15 jobs. Projects having retained jobs and those creating public sector jobs shall be reviewed on a case-by-case basis and if funds are limited these type projects will have a lower priority for funding. MDA may consider proposals that are based on full time job equivalents. One full-time job is equivalent of a minimum of 1,820 annual work hours.

C. CDBG assistance per job must be $20,000 or less.
D. The applicant must have a Memorandum of Agreement executed with the business to create and/or retain the jobs and to make the investment as described in the application. The highest official within both the local government and the benefiting business/industry must sign this agreement.
E. CDBG participation is limited to a maximum of 50% of the total project cost.
F. Any eligible applicant for 2011 Economic Development funds that has an Economic Development grant over three years old must receive special permission from MDA to apply.
G. Applicants from Tier 1 or 2 counties must provide a minimum of 10% local cash match towards the eligible infrastructure improvements. Applicants from a Tier 3 county must make a best effort to provide a 10% local cash match. Federal or state loans may be used to meet this requirement. In-kind services may also be used to meet this requirement.

Source: 24 CFR 570.480-497

Rule 11.5 Application Process. Based on MDA's project review process, the local unit of government seeking Economic Development funding must first submit a project proposal. Based upon an initial review of the proposal, MDA may require a meeting with relevant parties to discuss the project. Then, MDA may issue a letter inviting a CDBG Economic Development application. The local unit of government will be given 90 days to submit the application.

Source: 24 CFR 570.480-497

Rule 11.6 Selection Process. Applications will be evaluated based on the following:
A. Eligibility and project readiness
B. Local financial commitment
C. Business investment
D. Wages paid and benefits offered
E. Company's financial condition

Applications that were not funded in Program Year 2010 because no funds were available may be considered for funding under the Program Year 2011 guidelines.

Source: 24 CFR 570.480-497

Rule 11.7 Performance Measures. Beginning October 2006, HUD required that all recipients provide additional information to better measure the achievements of Federal programs. By law, all Federal agencies are required to measure outcomes of their programs and these measurements will be directly linked to funding decisions. The following information includes an objective, possible outcomes, and possible indicators for each program category. This information will be used to assist MDA in reporting performance outcome measures to HUD.

Source: 24 CFR 570.480-497

Rule 11.8 Job Category Definitions.
A. Officials and Managers: Occupations requiring administrative personnel who set

broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials, executives, middle management, plant managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, and kindred workers.

B. Professional: Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dieticians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations workers, physical scientists, physicians, social scientists, teachers, and kindred workers.

C. Technicians: Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post high school education such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes computer programmers and operators, drafters, engineering aides, junior engineers, mathematic aides, licensed practical or vocational nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical science) and kindred workers.

D. Sales: Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, sales-workers, demonstrators, retail sales workers, and sales clerks, grocery clerks and cashiers, checkers, and kindred workers.

E. Office and Clerical: Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists, and secretaries, telegraph and telephone operators, and kindred workers.

F. Craft Workers (skilled): Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators (who are not members of management), mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, and kindred workers.

G. Operatives (semi-skilled): Workers who operate machines or other equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dressmakers and sewers (except factory), dryers, furnace workers, heaters (metal), laundry and dry cleaning, operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, boiler tenders, truck and

tractor drivers, weavers (textile), welders and flame cutters, and kindred workers.

H. Laborers (unskilled): Workers in manual occupations which generally require no special training to perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, gardeners (except farm) and ground keepers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

I. Service Workers: Workers in both protective and nonprotective service occupations. Includes: attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, char-workers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection guards, doorkeepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, and kindred workers.

Source: 24 CFR 570.480-497

Title 6: Economic Development

Part 5: Policies, Procedures and Organization

Part 5 Chapter 1: Debarment and Suspension Policy

Rule 1.1 Policy. In order to protect the public trust and interest imposed upon the Mississippi Development Authority (MDA), it is the policy of the agency to conduct business only with responsible persons. However, when it appears that a subgrantee's and/or its agent, agents, and/or any entity's conduct, as determined by the agency, creates a reasonable belief that a particular act or omission, which would be covered by this policy, has occurred, MDA shall implement discretionary actions known as debarment and suspension. Debarment and suspension are serious actions which shall be used only in the public interest and for the agency and the State Of Mississippi's protection and not for purposes of punishment. MDA may impose debarment or suspensions for causes and in accordance with the procedures set forth herein.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.2 Coverage. This policy shall apply to all subgrantees, and/or its agent, agents, and/or anyone or any entity acting on behalf of a subgrantee, who have participated in, or are presently participating in MDA programs. For purposes of these regulations, transactions will be subdivided into (1) primary transactions, i.e., any transaction between MDA and the subgrantee, and/or its agent, agents, and/or anyone/any entity acting on behalf of a subgrantee, regardless of type, or (2) lower tier transactions, i.e., transactions between subgrantee, and/or its agent, agents, and/or anyone or any entity acting on behalf of a subgrantee, and another, regardless of type, under a primary transaction. When more than one agency has an interest in the proposed debarment or suspension of a person or entity, consideration shall be given to designating one agency as the lead agency for making the decision.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.3 Effect of Action. Except to the extent prohibited by law, subgrantee's, and/or its agent, agents and/or anyone , or any entity who are debarred or suspended shall be excluded from primary transactions and lower tier transactions for the period of their debarment or suspension.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.4 Debarment. The MDA Executive Director, as the debarring official, or his designee, after consultation with the appropriate Division Director, may debar a subgrantee, and/or its agent, agents, and/or anyone or any entity acting on subgrantee's behalf for any causes noted herein. However, the existence of a cause for debarment does not necessarily require that the subject be debarred. The seriousness of the person's acts or omissions and any mitigating factors shall be considered in making any debarment

decision. Debarment means, for the purpose of the MDA, an action taken by an agency in accordance with these rules to exclude the subject from participating in a covered transaction.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.5 Causes for Debarment. Debarment may be imposed for:

A. Conviction of or civil judgment for:

(i). Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(ii). Violation of Federal or State antitrust statutes, including those prescribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

(iii). Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or

(iv). Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a person.

B. Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as:

(i). A willful failure to perform in accordance with the terms of two or more public agreements or transactions;

(ii). A history of failure to perform or unsatisfactory performance of two or more public agreements or transactions;

(iii). A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction; or

(iv). Any other cause of so serious or compelling a nature that it affects the present responsibility of a person, entity or the operation and/or integrity of a program.

C. Any of the following causes:

A procurement or nonprocurement debarment taken by any Federal agency pursuant to 48 CFR Subpart 9.4.

(i). Knowingly doing business with a debarred, suspended, ineligible or voluntarily excluded person, in connection with a transaction, except as expressly permitted by the agency in writing; or

(ii). Any other cause of so serious or compelling a nature that it affects the present responsibility of a person or entity.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.6 Procedures. MDA shall process debarment actions as informally as practicable, consistent with the principles of fundamental fairness using the procedures in Rules 1.7 through 1.11.

A. Information concerning the existence of a cause for debarment from any

source shall be promptly reported, investigated, and referred, when appropriate, to the debarring official for consideration. After consideration, the debarring official, MDA's Executive Director, or his designee, may issue a notice of proposed debarment.

B. MDA shall establish an administrative file upon receipt of any information concerning a possible cause for debarment or suspension. This administrative file is the property of MDA and not subject to review by the public.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.7 Notice of Proposed Debarment. A debarment proceeding shall be initiated by written notice, through certified mail, to the respondent advising:

A. That debarment is being considered;

B. Of the reasons for the proposed debarment in terms sufficient to put the respondent on notice of the conduct or transaction(s) upon which it is based;

C. Of the causes relied upon under Rule 1.5 "Causes for Debarment" above;

D. Of the opportunity and procedures to contest the proposed debarment and a final adverse decision; and

E. Of the potential effect of a debarment

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.8 Opportunity to Contest Proposed Debarment. Within 30 days after receipt of the notice of proposed debarment, the respondent may submit, personally or through a legal representative, in writing, information and arguments in opposition to the proposed debarment.

A. Agency Proceeding As to Disputed Material Facts

(i). In actions not based upon a conviction or civil judgment, if the debarring official finds the respondent's submission in opposition raises a genuine dispute over facts material to the proposed debarment, respondent(s) shall be afforded an opportunity to appear before the debarring official with a representative, submit written documentary evidence in the form of paper documents and sworn affidavits. MDA will accept sworn affidavits from respondent's witnesses.

(ii). A transcribed record of the Agency Proceeding may be made by the respondent, at their own cost, provided they have received the prior written approval of the debarring official.

(iii). Technical rules of evidence shall be relaxed during Agency Proceedings.

(iv). Respondent must obtain prior written approval of the debarment official regarding the use of a court reporter at least two weeks prior to the Agency Proceeding.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.9 Debarring Official's Decision

A. No Agency Proceeding Necessary. In actions based upon a conviction or civil judgment, or in which there is no genuine dispute over material facts, the debarring official shall make a decision on the basis of all the information in the administrative record, including any submissions made by the respondent. The decision shall be made within 30 days after receipt of any information and argument submitted by the respondent, unless the debarring official extends this period for good cause.

B. Agency Proceeding Necessary

(i). In actions in which an Agency Proceeding is necessary to determine disputed material facts, written findings of fact shall be prepared. The debarring official shall base the decision on the facts as found, together with any information and argument submitted by the respondent and any other information in the administrative record.

(ii). The debarring official's decision shall be made after the conclusion of the Agency Proceeding and careful consideration of all information provided by the parties involved with respect to disputed facts.

C. Standard of Proof

(i). In any debarment action, the cause for debarment must be established by a preponderance of the evidence. Where the proposed debarment is based upon a conviction or a civil judgment, the standard shall be deemed to have been met.

(ii). Preponderance of the evidence is proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(iii). The burden of proof is on the agency proposing debarment.

D. Notice of Debarring Official's Final Decision

(i). If the debarring official decides to impose debarment,

(a). the respondent shall be given prompt written notice by certified mail:

(b). Referring to the notice of proposed debarment;

(c). Specifying the reasons for debarment;

(d). Stating the period of debarment, including effective dates; and,

(e). Advising that the debarment is effective for covered transactions throughout the agency.

(ii). If the debarring official decides not to impose debarment, the respondent shall be given prompt written notice by certified mail of that decision. A decision not to impose debarment shall be without prejudice to a subsequent imposition of debarment by any other agency.

(iii). The decision of the debarring official is final.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.10 Period of Debarment.

A. Debarment shall be for a period of time commensurate with the seriousness of the cause(s). If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

B. The debarring official may extend an existing debarment for an additional period, if that official determines that an extension is necessary to protect the public interest.

C. Debarment for causes set forth in Rule 1.5(a)(4) through Rule 1.5(c)(3) generally should not exceed three (3) years. Where circumstances warrant, a longer period of debarment may be imposed.

D. Debarment for cause set forth in Rule 1.5(a)(1), (2) and (3) generally shall not exceed seven (7) years.

E. The debarring official may extend an existing debarment for an additional period, if that official determines that an extension is necessary to protect the public interest. However, a debarment may not be extended solely on the basis of the facts and the circumstances upon which the initial debarment action was based. If debarment for an additional period is determined to be necessary, the procedures set forth at Rule 5.7 "Notice of Proposed Debarment" shall be followed to extend the debarment.

F. The respondent may request the debarring official reverse the debarment decision or to reduce the period or scope of debarment. Such a request shall be in writing and supported by documentation. The debarring official may grant such a request for reasons including, but not limited to:

(i). Newly discovered material evidence;

(ii). Reversal of the conviction or civil judgment upon which the debarment was based;

(iii). Bonafide change in ownership or management;

(iv). Elimination of other causes for which the debarment was imposed; Or,

(v). Other reasons the debarring official deems appropriate.

G. Where respondent's request to reduce the period or scope of debarment is based on reasons set forth at Rule 1.10(f) such request may not be submitted earlier than six (6) months after the final decision to debar. In no event may more than one such request be submitted within any 18-month period.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.11 Scope of Debarment.

A. Debarment of a person under these regulations constitutes debarment of all its divisions and other organizational elements from all covered transactions, unless the debarment decision is limited by its terms to one or more specifically identified individuals, divisions or other organizational elements or to specific types of transactions.

B. The debarment action may include any affiliate of the participant that is specifically named and given notice of the proposed debarment and an opportunity to respond as set forth at Rule 1.7.

C. The fraudulent, criminal or other seriously improper conduct of one participant in a joint venture, grant pursuant to a joint application, or similar arrangement may be imputed to other participants if the conduct occurred for or on behalf of the joint venture, grant pursuant to a joint application, or similar arrangement or with the knowledge, approval, or acquiescence of these participants. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

D. Persons debarred will be placed on MDA's Debarment List.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.12 Suspension. Suspension is a serious action to be imposed only when there exists adequate evidence of one or more of the causes set out in Rule 1.5 "Causes For Debarment", and immediate action is necessary to protect the public interest. For purposes of this agency, suspension is an action taken by MDA in accordance with the following regulations that immediately excludes a subgrantee and/or its agent, agents, and/or anyone/any entity from participating in transactions for a temporary period, pending investigation and such legal action, debarment, or other proceedings as may ensue.

A. In assessing the adequacy of the evidence, the agency should consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment should include an examination of basic documents such as grants, cooperative agreements, loan authorizations and contracts.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.13 Causes for Suspension. Suspension may be imposed upon adequate evidence to suspect the commission of a debarment offense as listed in Rule 1.5 "Causes for Debarment". Indictment, conviction of a criminal misdemeanor or felony, or a civil judgment in a matter which has a direct bearing upon a person persistent responsibility and capacity to perform the contract or service in question, alone shall constitute adequate evidence for purposes of suspension actions.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.14 Procedures For Investigation and Referral. Information concerning the existence of a cause for suspension from any source shall be promptly reported, investigated, and referred, when appropriate, to the suspending official for consideration. After consideration, the suspending official may issue a Notice of Suspension. MDA shall process suspension actions as informally as practicable, consistent with principles of fundamental fairness, using the procedures in Rule 1.15

"Notice of Suspension".

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.15 Notice of Suspension. When a respondent is suspended, written notice, by certified mail, shall be immediately given:

A. That suspension has been imposed;

B. That the suspension is based on an indictment, conviction, or other adequate evidence that the respondent has committed irregularities seriously reflecting on the propriety of further agency dealings with the respondent;

C. Describing any such irregularities in terms sufficient to put the respondent on notice without disclosing the agency's evidence;

D. Of the cause(s) relied upon as set forth in Rule 1.5 "Causes For Debarment;

E. Of the effect of the suspension.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.16 Suspending Official's Decision. The suspending official may modify or terminate the suspension for reasons as set forth at Rule 1.10(f) or may leave it in force. However, a decision to modify or terminate the suspension shall be without prejudice, to the subsequent imposition of debarment.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.17 Period of Suspension. Suspension shall be for a temporary period pending the completion of an investigation or ensuing legal action, or debarment. If legal, administrative or debarment proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated, unless the Executive Director determines that this time should be extended. The suspension may be extended for six (6) months. In no event may a suspension extend beyond 18 months, unless debarment proceedings have been initiated during that period.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.18 Scope of Suspension. The scope of a suspension is the same as the scope of a debarment (see Rule 1.11), except that the procedures of Rule 1.13 through Rule 1.17 shall be used in imposing a suspension.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Rule 1.19 Settlement and Voluntary Exclusion. When it is in the best interest of the agency, MDA may, at any time, settle a debarment or suspension action. If a participant and MDA agree to a voluntary exclusion of the participant, such voluntary exclusion shall be entered on the Debarment List.

Source: Miss. Code Ann. §57-5-5 (Rev. 2008)

Part 5 Chapter 2: Rule-Making Oral Proceedings

Rule 2.1 Application of Chapter. This chapter applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the pursuant to the Administrative Procedures Act.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 2.2 Request for Oral Proceeding. When a political subdivision, an agency, or a citizen requests an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.

A. Each request must be submitted on 8-1/2" x 11" white paper.
B. The request may be in the form of a letter addressed to the MDA.
C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 2.3 Notice of Oral Proceeding. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The agency providing the notice shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Agency Head, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 2.4 Public Participation Guidelines. Public participation shall be permitted at oral proceedings in accordance with the following:

A. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
B. Persons wishing to make oral arguments at such a proceeding may notify the MDA at least three business days prior to the proceeding and indicate the general subject of their arguments. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the MDA prior to the proceeding.
C. At the proceeding, those who participate shall indicate their names and addresses, indentify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
D. The presiding officer may place time limitations on individual comments when necessary to assure the orderly and expeditious conduct of the oral proceeding.
E. Persons making arguments are encouraged to avoid restating matters that have

already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.

G. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 2.5 Submissions and Records. Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the MDA, part of the rulemaking record, and are subject to the MDA's public records request procedure. The MDA may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Part 5 Chapter 3: Declaratory Opinions

Rule 3.1 Model Rules. This chapter consists of model rules addressing the public's request for declaratory opinions and the MDA's disposition of requests for declaratory opinions.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.2 Application of Chapter. This chapter sets forth the MDA's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the MDA's procedures regarding the disposition of requests as required by Mississippi Code § 25-43-2.103.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.3 Scope of Declaratory Opinions. The MDA will issue declaratory opinions regarding the applicability to specified facts of:

A. a statute administered or enforceable by the MDA,
B. a rule promulgated by the MDA, or
C. an order issued by the MDA.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.4 Scope of Declaratory Opinion Request. A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.5 How to Submit Requests. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request.

A. Each request must be submitted on 8-1/2" x 11" white paper.

B. The request may be in the form of a letter addressed to the MDA.

C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).

D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

E. Each request must clearly state that it is a request for a declaratory opinion.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.6 Signature Attestation. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.7 Request Content Requirement. Each request must contain the following:

A. A clear identification of the statute, rule, or order at issue;

B. The question for the declaratory opinion;

C. A clear and concise statement of all facts relevant to the question presented;

D. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and

E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: *Miss. Code Ann.*§ 25-43-2.105 (Rev. 2006).

Rule 3.8 Reasons for Refusal of Declaratory Opinion Request. The MDA may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

A. The matter is outside the primary jurisdiction of the MDA;

B. Lack of clarity concerning the question presented;

C. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;

D. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

E. The facts presented in the request are not sufficient to answer the question presented;

F. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;

G. The request seeks to resolve issues which have become moot or are abstract or

hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;

H. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;

I. The question presented by the request concerns the legal validity of a statute, rule, or order;

J. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;

K. No clear answer is determinable;

L. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;

M. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;

N. The question is currently the subject of an Attorney General's opinion request;

O. The question has been answered by an Attorney General's opinion;

P. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;

Q. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or

R. The question involves eligibility for a license, permit, certificate or other approval by the MDA or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.9 Agency Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the MDA shall, in writing:

A. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;

B. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or

C. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day after which the request is received by the MDA.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Rule 3.10 Availability of Declaratory Opinions and Requests for Opinions. MDA Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain

confidential.

Source: *Miss. Code Ann.*§ 25-43-2.103 (Rev. 2006).

Part 5 Chapter 4: Organization of the Mississippi Development Authority

Rule 4.1 Chapter Content. In accordance with Section 25-43-2.104(a) of the Mississippi Administrative Procedures Act, this chapter describes the Mississippi Development Authority's duties and responsibilities, the organization of the Mississippi Development Authority's office, its methods of operation, and how the public can contact the agency to make submissions or requests.

Source: Miss. Code Ann. §25-43-2.104 (Rev. 2006)

Rule 4.2 Mississippi Development Authority's Organization. The Mississippi Development Authority consists of an executive director appointed by the Governor, with the advice and consent of the Senate. The executive director shall be the executive officer of the department in the execution of any and all provisions of this chapter.

Source: Miss. Code Ann. §57-1-5 (Rev. 2008).

Rule 4.3 Executive Director Duties. The executive director shall have the following powers and duties:

A. To formulate the policy of the department regarding economic and tourist development of the State.

B. To use and expend any funds from the state, federal or private sources coming into the department for the purposes provided pursuant to statute.

C. To implement the duties assigned to the department and consistent with specific requirements of law, including but not limited to:

(i). Support services to include legal, finance, data processing, personnel, communications and advertising, purchasing and accounting;

(ii). Research and planning;

(iii).Outreach, agency liaison and community development;

(iv). Tourism, business travel and film;

(v). Programs and assistance for existing state business and industry;

(vi). Recruiting new business and industry into the state;

(vii). Fostering and promoting of entrepreneurship and the creation of new business in the state;

(viii). Programs aimed at competing effectively in the international economy;

(ix). Programs relating to the development of the ports;

(x). Such other areas as are within the authority and jurisdiction of the department and will promote and foster economic development;

(xi). Salaries of associate directors, deputy directors and bureau directors may be set by the executive director of the department.

Source: Miss. Code Ann. §57-1-5 (Rev. 2008).

Rule 4.4 Mississippi Development Authority Legislative Oversight Committee. There is a Mississippi Development Authority Legislative Oversight Committee charged to serve in an advisory capacity regarding matters under the jurisdiction of the MDA. However, the Committee shall have no jurisdiction or vote on any matter within the jurisdiction of the MDA.

Source: Miss. Code Ann. §57-1-10 (Rev. 2008).

Rule 4.5 Advisory Council. The Governor shall appoint an advisory counsel to the agency consisting of twenty-five members, five from each congressional district. The Governor shall serve as chairman of the council. The members shall serve in an advisory capacity and serve without pay and compensation for expenses.

Source: Miss. Code Ann. § 57-1-3 (Rev. 2008).

Rule 4.6 Contact Information. A current listing of contact information for the Mississippi Development Authority may be found at www.mississippi.org or obtained by calling (601)-359-3449.

Source: Miss. Code Ann. § 25-43-2.104 (Rev. 2006).