

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;
- H. Sole Proprietors

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. The Energy Analysis can be performed by MDA, utility companies or a qualified engineer. Only projects recommended by the Energy Analysis will be considered for funding. 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.
- C. Categories Eligible for Funding. Two categories of energy efficiency projects are eligible for funding. The categories are defined as Retrofit Projects and Energy Efficient Processes.
- D. Retrofit Projects. 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;
 - (xi). Renewable energy systems;
 - (xii) Heating and cooling systems; and/or
 - (xiii). other measures that can be shown to save energy or reduce energy demand.
- E. Energy Efficient Process. This category includes the implementation of equipment that enhances the efficiency of any industrial process by reducing energy consumption or allowing for the use of alternative energy sources. Examples of such projects include:
- (i). kilns;
 - (ii). boilers – natural gas or wood;
 - (iii). billet ovens;
 - (iv). optimizing saws;
 - (v). refrigeration systems;

(vi). Variable steam and hydraulic equipment

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, Five Hundred Thousand Dollars (\$500,000). The fixed rate of interest which shall be set at the time the application is approved, will be two percent (2.0%) 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. 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, measures installed or security interest in other assets or a combination of the afore-mentioned. Personal guarantees of all principles owning 20% or more of the business is required. 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. Detailed project description, including pictures.
- H. 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

I. 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 or 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 and the cost of Energy Analysis. The Cost of the Energy Analysis for the borrower will be capped at \$3,500. Additional cost, if applicable, will be the responsibility of MDA. 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 schedule 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)

Rule 1.11 Inquiries and Applications. Program inquiries and applications should be directed to the following mailing address:

- A. Mississippi Development Authority
Mississippi Energy Investment Program
Energy and Natural Resources Division

Post Office Box 849
Jackson, Mississippi 39205-0849
Telephone: (601) 359-6000
Fax: (601) 359-6642
Website: www.mississippi.org

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