

TITLE 200. OKLAHOMA DEVELOPMENT FINANCE AUTHORITY

CHAPTER 1. ADMINISTRATIVE OPERATIONS

[Authority: 74 O.S., § 5062.8; 74 O.S., § 5063.4]
[Source: Codified 12-12-91]

200:1-1-1. Purpose

This Chapter explains the nature of The Oklahoma Development Finance Authority (formerly The Oklahoma Development Authority), the general operations of the Authority, and the Authority's role as Administrator of the Credit Enhancement Reserve Fund, pursuant to Oklahoma law.

200:1-1-2. Definitions

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

"Act" means the Credit Enhancement Reserve Fund Act. [74:5063.2.1.]

"Administrator" means the directors, officers and employees of The Oklahoma Development Finance Authority, as Administrator of the Fund.

"Authority" means the Oklahoma Development Finance Authority. [74:5062.5.1]

"Board" means the Board of Directors of the ODFA.

"Board of Directors" means and includes the board of directors of the Authority created by this act (the Oklahoma Development Finance Authority Act). [74:5062.5.3]

"Director" or "Directors" means an individual member or members of the Board of Directors of the ODFA.

"Financing Assistance" or "financial assistance" means the making of, entering into or providing for guarantees, leases, insurance, financing credits, loans, letters of credit, financing assistance payments, grants or other financial aid. [74:5062.5.10]

"Fund" means the Credit Enhancement Reserve Fund. [74:5063.2.3]

"ODFA" means The Oklahoma Development Finance Authority existing and operating under Title 74, Sections 5062.1 to .22, as the successor to The Oklahoma Development Authority, a public trust organized under Title 60, Sections 176 et.seq. and a Declaration of Trust, as amended.

"ODFA Act" means the Oklahoma Development Finance Authority Act codified at Title 74, Sections 5062.1 to .22.

"Quality Jobs Investment Program" means the Quality Jobs Investment Program codified at Title 74, Sections 5062.8A-G, which provides legislative authorization for the ODFA to use the resources of the CERF to attract investment capital into Oklahoma.

"State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, public trust where the state is the beneficiary, or other instrumentality thereof. [74:5062.5.19]

[Source: Amended at 12 Ok Reg 2173, eff 7-14-95]

200:1-1-3. Statutory citations

Citations to statutes in the rules of this Chapter refer to the most recent codification of the statute.

200:1-1-4. Organization of the ODFA

(a) **General.** The ODFA, which is the Administrator of the Fund, is a successor to The Oklahoma Development Authority, a public trust that was organized under Title 60, Sections 176 et seq. and a Declaration of Trust, as amended. ODFA is a constituted instrumentality of the State of Oklahoma with comprehensive and extensive powers to provide financing assistance for multiple purposes.

(b) **Board of Directors.** The ODFA is governed by a Board of Directors consisting of seven (7) persons. One of the persons is the Director of the Oklahoma Department of Commerce who serves ex officio but who is a voting member of the Board. Another person, qualified by outstanding knowledge, leadership and experience in the field of finance, is appointed by the Governor of the State of Oklahoma for a two (2) year term subject to the advise and consent of the State Senate. The other five (5) members of the Board are appointed by the Governor, subject to the advise and consent of the State Senate, for staggered terms made on the basis of outstanding knowledge, leadership and experience in the respective field of the appointee. The members annually elect a chairman, vice-chairman, secretary and treasurer from among the membership.

(c) **Board action.** Four (4) members of the Board constitute a quorum. The affirmative vote of the majority of members present at a meeting of the Board of Directors is necessary for any action in regard to the Fund.

(d) **Administration.** The day to day management of the ODFA is vested in a president appointed by the Board. The president employs such other officers and employees as designated by the Board and directs and supervises the administrative affairs and the general management of the ODFA.

(e) **Program Development and Credit Review Committee.** The Committee shall:

(1) Consist of three members: The State Bond Advisor, an ODFA representative and an "at large" member mutually selected by the Bond Advisor and the ODFA appointee. The at large member will serve for a period of six months subject to renewal at the pleasure of the Bond Advisor and the ODFA representative. A quorum will consist of two members. Two affirmative votes are necessary for the Program Development and Credit Review Committee to take action.

(2) Elect a chairman, vice-chairman and secretary for the purpose of conducting business.

(3) Meet when necessary to act on pending business, such meetings shall be subject to the Open Meeting Act. The Committee may hold executive sessions at such meetings as is permitted by the Oklahoma Meeting Act, supra, including Executive Sessions to discuss materials that are confidential or commercially sensitive information. [74:5062.6F] With respect to the Committee's functions and responsibilities:

(A) The ODFA will provide staff for the Program Development and Credit Review Committee and will schedule meetings and prepare agendas.

(B) The ODFA representative shall review and analyze applications and submit the application, terms and conditions relating to the financing and the proposed Insurance Premium for approval or disapproval by the Program Development and Credit Review Committee.

(C) There shall be no appeal with respect to the decision of the Program Development and Credit Review Committee.

(D) Any applicant whose project was disapproved at any level may submit a new application.

(4) Prior to the consideration of any application requesting Credit Enhancement Reserve Fund support except for obligations exempted under the Quality Jobs Investment Program, review and report to the ODFA Board of Directors and to the Executive and Legislative Bond Oversight Commissions findings concerning the Rules Regarding the Administration of the Credit Enhancement Reserve Fund and related regulations and policies as implemented, for the purpose of determining if said rules, regulations and policies adequately and sufficiently fulfill the intents and purposes of the Credit Enhancement Reserve Fund Act.

(5) Review and approve or disapprove program concepts except for obligations exempted under the Quality Jobs Investment Program which generally describe the public purpose, intended public to be served and estimated size of programs which are intended to be supported by the Credit Enhancement Reserve Fund, prior to any action by the ODFA Board of Directors.

(6) Review the application, the Credit Officer's report, the terms and conditions of the proposed ODFA Commitment, and any supporting material for the purpose of assigning a rating of low, moderate or high credit risk based upon the risk of the venture and the ultimate risk of loss exposure to the Credit Enhancement Reserve Fund except for obligations exempted under the Quality Jobs Investment Program.

(7) Examine the credit analysis and due diligence on each application and prepare and provide a written report to the ODFA Board of Directors concerning the credit rating and concerning sufficient compliance with the Rules Regarding the Administration of the Credit Enhancement Reserve Fund except for obligations exempted under the Quality Jobs Investment Program.

[Source: Amended at 10 Ok Reg 1581, eff 5-13-93; Amended at 12 Ok Reg 2173, eff 7-14-95]

200:1-1-5. General methods of ODFA operation

(a) **Official office.** The official office of the ODFA is located in Oklahoma City, OK. Its telephone number is (405) 848-9761. The office hours are from 8:30 to 5:00 p.m. Central Time each day except Saturday, Sunday and legal holidays.

(b) **Meetings of the Board.** The ODFA will conduct its meeting of the Board, and any committees thereof, in accordance with its Declaration of Trust, as amended, its By-Laws and the Oklahoma Open Meeting Act, Title 25, Sections 301 to 314.

(c) **Executive sessions.** The Board may hold executive sessions at such meetings as is permitted by the Oklahoma Open Meeting Act, supra, including executive sessions to discuss materials that are confidential or commercially sensitive information pursuant to Title 74, Section 5062.6(F).

(d) **Notice of meetings.** Notice of annual; regular, special, or emergency meetings will be given in accordance with the provisions of the Oklahoma Open Meeting Act, supra.

(e) **Agenda items.** The President of the ODFA will cause an agenda to be prepared for each meeting of the ODFA. The agenda will be filed and posted in accordance with the Oklahoma Open Meeting Act, supra. Any matter which the President deems necessary may be placed on the agenda for a meeting. Any matter which any member of the Board deems necessary will be placed on the agenda if communicated to the President in time for lawful filing and posting of the agenda.

Other responsible persons may request the President to place matters on the agenda for a meeting.

(f) **Confidential or commercially sensitive information.** *Any information submitted to or compiled by The Oklahoma Development Finance Authority with respect to the marketing plans, financial statements, trade secrets or any other commercially sensitive information of persons, firms, associations, partnerships, agencies, corporations or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure.* [74:5062.6(F)]

(g) **Open records.** The President will appoint one (1) member of the ODFA staff to act as the Open Records contact person. All requests for the public records of the ODFA will be made upon this person who will be charged with making the public records of the ODFA available for inspection by or copying to the requesting party during normal office hours. The ODFA will charge \$0.25 per page for each copy of a public record made upon written request. The contact person so designated will decide if the request is for a record not otherwise made confidential under Oklahoma law. The designated Open Records contact person is authorized to discuss this decision with the President, legal counsel, or the Office of the Attorney General of the State of Oklahoma as may become necessary. Except information that is confidential or commercially sensitive as described above, or specifically kept confidential under Oklahoma or federal law, all documents or other records of the ODFA will be open for public inspection and copying.

[Source: Amended at 12 Ok Reg 2173, eff 7-14-95]

CHAPTER 10. ADMINISTRATION OF CREDIT ENHANCEMENT RESERVE FUND

[Authority: 74 O.S., § 5063.4]

[Source: Codified 12-12-91]

SUBCHAPTER 1. GENERAL PROVISIONS

200:10-1-1. Purpose

The rules of this Chapter establish public policies, procedures and criteria for applying for and issuance of credit facility commitments by the Credit Enhancement Reserve Fund authorized by the Credit Enhancement Reserve Fund Act, Title 74, Sections 5063.1 to .20, to credit enhance the revenue bonds or other financial obligations issued by The Oklahoma Development Finance Authority pursuant to the Oklahoma Development Finance Authority Act, Title 74, Sections 5062.1 to .22.

200:10-1-2. Statutory citations

Citations to statutes in the rules of this Chapter refer to the most recent codification of the statute.

200:10-1-3. Statutory definitions

Terms used in this Chapter are defined in Title 74, Sections 5062.1 to .22 and in Title 74, Oklahoma Statutes 1991, Sections 5063.1 to .20. However, for the purpose of clarity, the following statutory definitions are reprinted in these Rules:

"Act" means the Credit Enhancement Reserve Fund Act. [74:5063.2.1]

"Agricultural enterprise" means facilities for farms, ranches, other agricultural, silvacultural or aquacultural commodity operations, and related businesses and industries, including but not limited to grain elevators, shipping heads, livestock pens, warehouses and other storage facilities, related transportation facilities, drainage facilities and any related facilities hereto (sic). [74:5062.5.2]

"Authority" means the Oklahoma Development Finance Authority. [74:5062.5.1]

"Board of directors" means and includes the board of directors of the Authority created by this act (the Oklahoma Development Finance Authority Act). [74:5062.5.3]

"Bonds" means the Credit Enhancement Reserve Fund General Obligation Bonds authorized pursuant to Section 81 (74:5063.11) of this Act (the Credit Enhancement Reserve Fund Act). [74:5063.2.2]

"Educational facilities" means any facility intended by an educational institution in furtherance of its educational program, including, but not limited to, classrooms, laboratories, administrative buildings, equipment and other property for use therein or thereon. [74:5062.5.5]

"Energy conservation facilities" means any facility designated for the purchasing and installation of energy conservation equipment or facilities, including building modifications. [74:5062.5.6]

"Energy distribution facilities" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental or business entity and which uses alcohol, peat, solar, waste, water and related dams, wind, wood, coal or natural gas. [74:5062.5.7]

"Energy generating facilities" means (a) for a system which does not generate electricity, an energy generating system owned, in whole or in part, by an individual, municipality, corporation or other governmental or business entity, and which systems (sic) uses biomass, peat, solar, waste, water and related dams, wind, wood or coal or which is an energy conservation project; or (b) for a system which does generate electricity, an energy generating system which uses alcohol, peat, solar, waste, water and related dams, wind, wood, or coal, and which is owned, in whole or in part, by an individual, municipality, corporation or other business or governmental entity. [74:5062.5.8.]

"Facilities" means any real property, including, without limitation, any land, building, fixture, improvement, easement, right-of-way, water right, land lying under the water of air right, and any personal property, including without limitation any leasehold, inventory, account receivable, patent, license, franchise, machinery, equipment, merchandise, raw material, supply, product, work in process or stock in trade, or mixed property of any and every kind including, but not limited to, buildings, rights-of-way, roads, streets, waterways, transportation systems, ports and terminals, pipes, pipelines, reservoirs, utilities, pollution control systems, toxic and solid waste disposal systems, health care facilities for furnishing any physical or mental health care, materials, commodities, equipment, fixtures, machinery, furniture, furnishings, instrumentalities, and other real, personal or mixed property of every kind or any preliminary studies and surveys related thereto. [74:5062.5.9]

"Financing assistance" or "financial assistance" means the making of, entering into or providing for guarantees, leases, insurance, financing credits, loans, letters of credit, financing assistance payments, grants or other financial aid. [74:5062.5.10]

"Fund" means the Credit Enhancement Reserve Fund. [74:5063.2.3]

"Industrial enterprise" means facilities for manufacturing, producing, research, processing, assembling, repairing, extracting, warehousing and distributing goods, facilities for any service profession, facilities for communications, computer services, transportation and corporate and management offices and services provided in connection with any of the foregoing, in isolation or in any combination that involve the creation of new or additional employment or the retention of existing employment, and industrial parks. [74:5062.5.12]

"Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, two or more persons have a joint or common interest or any other legal or commercial entity. [12A:1-201.28]

"Political subdivision" means any incorporated city or town, or school district, county, special district or public trust where a city, town, school district, county or special district is a beneficiary and all their institutions, agencies or instrumentalities.. [74:5062.5.14]

"Pollution" means any form of environmental pollution, including, but not limited to, water pollution, air pollution, radiation contamination, noise pollution or pollution caused by solid waste disposal. [74:5062.5.15]

"Pollution control facilities" means any facilities for the purpose of reducing, abating, preventing, controlling, or eliminating pollution caused or produced by the operation of any manufacturing, industrial, or commercial enterprise or any utility plant or useful for the purpose of removing or treating any substance in processed material, which material would cause pollution if used without such removal or treatment. [74:5062.6.16]

"Project" means any facility used for or in connection with any of the following: industrial enterprises, agricultural enterprises, capital improvements, health care facilities, educational facilities, pollution control facilities, energy conversion facilities, energy distribution facilities, energy generating facilities, recreational facilities, short-term advance funding, waste water facilities. [74:5062.5.17]

"Short-term advance funding" shall mean the financing of temporary cash shortfalls of the state or political subdivisions. [74:5062.5.18.]

"State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, public trust where the state is the beneficiary, or other instrumentality thereof. [74:5062.5.19.]

"Waste water" shall mean any water containing sewage, industrial wastes, or other wastes or contaminants derived from the prior use of such water, and shall include, without limiting the generality of the foregoing, surface water of the type storm sewers are designed to collect and dispose of. [74:5062.5.20]

"Waste water facilities" shall mean any facility for the purpose of treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limiting the generality of the foregoing, facilities for the treatment and disposal of sewage, industrial wastes, or other wastes, waste water, and the residue thereof; facilities for the temporary or permanent impoundment of waste water, both surface and underground; and sanitary sewers or their collection systems, whether on the surface or underground, designed to transport waste water together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor. [74:5062.5.21]

200:10-1-4. Additional definitions

In addition to terms defined in Title 74, Sections 5062.5 and 5063.2, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administrator" means the directors, officer and employees of The Oklahoma Development Finance Authority, as Administrator of the Fund.

"Board" means the Board of Directors of the ODFA.

"Capital improvement facilities" means those public works facilities, including, without limitation, communications facilities, educational facilities, energy generation, distribution and conservation facilities, health care facilities, prisons and other criminal justice facilities, and parks or other recreational facilities, including any such facilities developed by a public- private partnership or other joint enterprise activity.

"Cash" or **"Cash equivalents"** means cash, deposits of money (whether or not interest bearing), or certificates of deposit that are held by a financial institution acceptable to the ODFA, in its sole discretion, and which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation (or to the extent not so insured are collateralized by Eligible Investment Securities); irrevocable letters of credit issued by a financial institution acceptable to the ODFA in its sole discretion; or loan guarantees from insurance companies or other institutions acceptable to the ODFA in its sole discretion.

"Code" means the United States Internal Revenue Code of 1986, as amended and Internal Revenue Service Regulations, Rulings and Private Letter Rulings thereunder.

"Credit Officer" means any officer, employee or independent contractor of the ODFA or the Fund that is responsible for credit review and Insurance underwriting decisions on recommendations to the Board regarding the issuance of Insurance Commitments by the Fund.

"Director" or **"Directors"** means an individual member or members of the Board of Directors of the ODFA.

"Distribution center facilities" means facilities for the receiving, handling, storage, repackaging, assembly, reshipment or transshipment of materials, goods or commodities to other facilities owned by the Person owning or operating the distribution center, or any related Person there to; or the major portion of the materials, goods or commodities shipped from the distribution center are shipped to facilities located outside this State; provided however that distribution centers for intoxicating and non intoxicating alcoholic beverages as defined in Title 37 of the Oklahoma Statutes shall not qualify. [60:178.4]

"General Obligation Bonds" or **"G. O. Bonds"** means the Credit Enhancement Reserve Fund General Obligation Bonds in an amount not to exceed \$100,000,000, as authorized by Title 74, Section 5063.11 and Article X, Section 42 of the Oklahoma Constitution as added by State Question 610.

"Health care facilities" means any Facility or Project used primarily for health care, including, without limitation, hospitals, extended care facilities, nursing homes, clinics, ancillary facilities and facilities functionally related and subordinate thereto.

"Infrastructure facilities" means those public works facilities including, without limitation, streets, roads and highways, bridges, mass transit facilities, parking facilities, aviation facilities, water resources, water supply facilities, waste water facilities, solid waste disposal and hazardous waste disposal facilities and

pollution control facilities, including any such facilities developed by a public-private partnership or other joint enterprise activity.

"Insurance" means any policy or other instrument of insurance, assurance, indemnity, surety, or guaranty that is issued by the ODFA, as Administrator of the Fund, using the resources of the Fund to secure the payment of principal, interest and premium, if any, on the revenue bonds and other financial obligations issued by the ODFA.

"Insurance Commitment" means the conditional commitment of the Fund obligating it to issue a policy or other instrument providing Insurance.

"Investment Securities" or **"Eligible Investment Securities"** means:

(A) Marketable direct obligations of, or obligations on which the principal and interest are unconditionally guaranteed by, the United States of America;

(B) Marketable bonds, debentures, notes or other evidences of indebtedness issued or guaranteed by any of the following agencies, the Federal Farm Credit Banks, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Banks or the Federal Home Loan Mortgage Corporation;

(C) Repurchase agreements or other similar banking arrangements with maturities of six months or less, contracted with banks which are members of the Federal Deposit Insurance Corporation, or with government bond dealers reporting to and trading with the Federal Reserve Bank of New York, which such agreements are secured by securities which are obligations without regard to maturities described in (A) and (B) of this definitions, margined at 100% or higher;

(D) Shares in an Investment Company registered under the Federal Investment Company Act of 1940 whose shares are registered under the Federal Securities Act of 1933 and whose only investments are obligations described in (A) and (B) and (C) of this definition, having an average maturity of one year or less;

(E) Bonds of the State of Oklahoma or its political subdivisions; or

(F) Such other marketable securities as are acceptable to the ODFA in its sole discretion; provided that such securities must be evaluated monthly as to the market value of the pledged securities and ODFA is granted a perfected security interest in such securities.

"ODFA" means The Oklahoma Development Finance Authority existing and operating under Title 74, Sections 5062.1 to .22 as the successor to The Oklahoma Development Authority, a public trust organized under Title 60, Sections 176 et seq. and a Declaration of Trust, as amended.

"ODFA Act" means the Oklahoma Development Finance Authority Act codified at Title 74, Sections 5062.1 to .22.

"Other financial obligations" means guarantees, loans, letters of credit or other similar obligations issued by ODFA pursuant to the ODFA Act to provide financing assistance.

"Other public facilities" means any facilities, other than infrastructure facilities and capital improvement facilities, which are owned or used by the State or any political subdivision thereof and are available to the general public, including any such facilities developed by a public-private partnership or other joint enterprise activity.

"Oversight Commissions" means the Executive Bond Oversight Commissions and the Legislative Bond Oversight Commissions created by the Oklahoma Bond Oversight and Reform Act, Title 62, Sections 695.1 to 695.11.

"Person" includes any individual, any Organization, a Foundation, the State or a Political subdivision.

"Professional office space" means facilities devoted to the provision of services, administration, supervision, or management functions performed by professionals, or in connection with professions, regulated or licensed under applicable State law, as determined by the ODFA.

"Program" means the provision of financing assistance by the ODFA to finance or refinance projects, facilities, short term advance funding, or the purchase of obligations of the State or political subdivisions that is made available to two or more persons in a common financing or series of such financings.

"Recreational facilities" means facilities that further recreational activities including, without limitation, diversions from work and other activities pursued for pleasure, amusement, culture, entertainment, enjoyment, diversion, relaxation, sport, and other pleasurable pastimes.

"Revenue bonds" means any bonds, notes, obligations, debentures, interim certificates, grant and revenue anticipation notes, interest in a lease, lease certificates of participation, or other similar evidences of indebtedness issued by ODFA pursuant to the ODFA Act.

200:10-1-5. Severability

Each provision of the rules of this Chapter is severable. If any provision is declared invalid, the invalidity will not affect any other provisions of the rules of this Chapter.

200:10-1-6. Interpretation of rules

The rules and procedures of this Chapter are adopted to simplify procedure, avoid delays, save expenses, and facilitate the administration of the Fund by the Administrator. To that end, the rules will be given a fair and impartial construction. The rules shall be cumulative to the Oklahoma Administrative Procedures Act found in Title 75, Section 250 et seq.

SUBCHAPTER 3. THE FUND

200:10-3-1. Purpose of the Fund

The Fund was created to be managed, administered and utilized by ODFA in accordance with the provisions of the Act.

(1) **Utilization of the Fund.** *The Fund shall be employed by the Oklahoma Development Finance Authority solely to secure the payment of principal, interest and premium, if any, on the revenue bonds and other financial obligations issued by the Authority pursuant to the Oklahoma Development Finance Authority Act, for the specific purpose of enhancing and supporting the credit of such revenue bonds and other financial obligations.* [74:5063.4]

(2) **Other credit facility acquisition.** *The Fund may also use the funds deposited from the proceeds of the General Obligation Bonds to purchase insurance or to enter into agreements with credit facilities in order to enhance the security of any holders of ODFA revenue bonds of other financial obligations.* [74:5062.12]

(3) **Expense disbursements.** Monies and other assets in the Fund may be expended for the operating expenses and costs of activities of the ODFA that are directly related to enhancing the credit of the ODFA's revenue and other financial obligations. In addition, a portion of the interest and other earnings on the Fund may be payable to an investment advisor, if any, for the Fund. [74:5063.4 (A), 74:5063.9]

(4) **Fund objective.** The objective of the Fund is to enable a participant of an ODFA financing that is a recipient of an Insurance Commitment to obtain or improve an investment grade credit rating in order to:

- (A) facilitate debt capital formation throughout the State of Oklahoma;
- (B) stimulate a larger flow of private investment capital to finance various Persons;
- (C) increase access to capital for various Persons at better financing rates and terms; and
- (D) encourage greater private financial institution lending.

200:10-3-2. Assets of the Fund

(a) **Separate funds and accounts for assets.** *The monies and other assets of the Fund will be maintained and accounted for as separate funds and accounts from all other monies and assets of the Authority and shall be accounted for separately in the financial statements prepared by or for the Authority [74:5063.5]*

(b) **Corporate trustees.** *The Fund will be held in the custody of one or more banks or trust companies having a principal place of business in Oklahoma pursuant to a trust agreement(s) with such institution(s). [74:5062.12]*

(c) **Sources of assets.** Potential sources of assets for the Fund include:

- (1) premiums charged for Insurance;
- (2) net proceeds of the General Obligation Bonds;
- (3) revenues of ODFA that are not otherwise committed or obligated for programs, operating expenses or to bonds issued by the ODFA;
- (4) any gifts, grants, loans or other assets made available by the federal government, the State or any Person;
- (5) interest earnings or gains from the investment of the Fund; and
- (6) the proceeds of liquidation of assets, other collection efforts, or the enforcement of any secured or other rights of the Fund.

200:10-3-3. Standards of operation of the Fund

(a) **Administration.** *The Authority shall administer the Fund prudently and according to good insurance practice. Such administration will minimize the loss experience of the Fund, assure the future viability of the Fund, and assure the continuing availability of the proceeds of the Bonds as a credit enhancement vehicle for bond issues in this state on an ongoing basis. [74:5063.4(B)]*

(b) **Principles of insurability.** *The granting of credit enhancement by the Fund shall be based on principles of insurability generally applied in the credit enhancement/insurance industry. [74:5063.4(B)]*

(c) **Standards.** Although the principles generally applied in the credit enhancement/insurance industry will be utilized, the standards applied by the Fund in applying those principles may vary from the standards utilized by private providers of credit facilities.

SUBCHAPTER 5. PROJECT AND PROGRAM ELIGIBILITY

200:10-5-1. Distribution and equal access

The Administrator will seek to ensure that a widespread geographic use is made of the Fund to provide distribution of Fund resources in the various regions of the State of Oklahoma and to provide equal access to all qualified applicant for Insurance to the end that all seventy-seven (77) counties in the State of Oklahoma have the prospect of participating in the economic activity stimulated by the Fund.

200:10-5-2. Financing purposes

Insurance Commitments may be issued to support the revenue bonds or other financial obligations issued by the ODFA for any of the multiple purposes for which the ODFA can provide financing assistance.

(1) **Purpose of ODFA financing.** The various purposes of financing that ODFA is authorized to do include:

(A) to expand and establish agricultural and industrial enterprises;

(B) to provide pollution control facilities;

(C) to develop public or private energy generating, distribution or conservation facilities and sources;

(D) to provide health care facilities;

(E) to provide infrastructure, waste water and capital improvement facilities;

(F) to provide educational facilities

(G) to provide recreational facilities; and

(H) to provide for short term advance funding and the purchase of the obligations of political subdivisions throughout the State of Oklahoma.

(I) to attract investment capital or make direct investments in firms which provide equity or loan funds to Oklahoma business entities.

(2) **Preferential purposes.** The Administrator will give preference to utilization of Fund resources to fulfill the Strategies and Implementing Actions for the "Oklahoma Five Year Economic Development Plan" adopted by Oklahoma Futures, and the annual business plan of ODFA.

[Source: Amended at 12 Ok Reg 2177, eff 7-14-95]

200:10-5-3. Target market for fund credit support

The administrator will seek to complement the resources of private credit enhancement providers. To this end, the following categories of credit will be emphasized for Fund Insurance:

(1) **Public sector.** In the public sector, entities which are, or would be, lower investment grade credit ratings, non-investment grade credit ratings, or non-ratable credits. This category includes not for profit organizations performing charitable activities in the nature of government services; and

(2) **Private sector.** The proceeds of obligation to which credit enhancement is granted shall be used, except for unusual circumstances with exceptionally strong public benefits and for obligations approved pursuant to the Small Business Credit Enhancement Program and for obligations approved pursuant to the Quality Jobs Investment Program, for expansion capital to businesses and for improvements or additions to real or personal property for the benefit of private or nonprofit use borrowers. Use of the Fund for business buyouts or refinancing shall be minimal. The Authority shall give reasonable priority to loans in rural areas. In implementing the

provisions of the Credit Enhancement Reserve Fund Act, the Authority shall generally limit the granting of credit enhancement by the Fund to high to moderate credit quality revenue bonds or other obligations of the Authority judged to be of low to moderate risk, meaning that an obligation to which credit enhancement is granted demonstrates a strong likelihood of repayment according to its terms. To the extent possible, the Fund shall be leveraged with private financial assistance for Fund-backed obligations for private or non-profit borrowers.

[Source: Amended at 10 Ok Reg 1583, eff 5-13-93; Amended at 12 Ok Reg 2177, eff 7-14-95]

200:10-5-4. Fund portfolio mix

(a) The Administrator will avoid concentration in any one industry or economic activity group and achieve a diverse utilization of the resources of the Fund to the end that there is a diversity of purposes for which Insurance Commitments are issued. The Administrator will issue Insurance Commitments within the insurance resources of the Fund that are for ODFAs financing assistance that will not exceed the limits for the respective purposes as follows:

(1) Industrial, agribusiness and other private activity: 25% of fund resources

(2) Infrastructure, capital improvements and other public facilities including Health Care Facilities and other non-profits providing that not more than 20% of this allocation may be used for health care and other non-profit owned facilities: 75% of fund resources

(b) The amount available for each purpose in the table in (a) of this Section is determined by deducting the outstanding Insurance or Insurance Commitments for obligations approved by the Bond Oversight Commissions prior to June 9, 1990 from the total principal amount of Credit Enhancement Reserve Fund Obligation Bonds which The Oklahoma Development Finance Authority is authorized to issue pursuant to Title 74 Section 5063.11. Up to \$40,000,000 of the resources of the Credit Enhancement Reserve fund may be used for investments made pursuant to the Quality Jobs Investment Program.

[Source: Amended at 10 Ok Reg 1583, eff 5-13-93; Amended at 12 Ok Reg 2177, eff 7-14-95]

200:10-5-5. Insurance Commitment size diversification

Within each of the Portfolio Mix purpose categories iterated in Section 200:10-5-4, the Administrator will issue Insurance Commitments within the insurance resources of the Fund that are diversified by size limitations. To maximize use of credit enhancement resource and to assure the viability of the Fund, the Fund shall have a balanced portfolio by loan size. In the case of the industrial agribusiness, and other private activity portfolio mix category, the Fund shall strive to achieve a cumulative average loan size of less than One Million Dollars (\$1,000,000.00).

[Source: Amended at 10 Ok Reg 1583, eff 5-13-93; Amended at 12 Ok Reg 2177, eff 7-14-95]

200:10-5-6. Fund geographic diversification

The Administrator will seek to avoid geographic concentration of Insurance Commitments and will seek to achieve diversity of geographic locations where Insurance Commitments are utilized. The Administrator will seek, but will not be required, to issue Insurance Commitments over time that constitute an equitable distribution among the nine (9) Economic Development Regions created among the

various counties in the State of Oklahoma and administered by the Oklahoma Department of Commerce. However, under no circumstances shall funds generated by the use of the resources of the Credit Enhancement Reserve Fund be used to fund projects located outside of the boundaries of the state. In making such evaluation of a fair and equitable distribution of the benefits of the Fund resources, the Administrator may consider the relative opportunities for economic development among the various regions, the rate and duration of unemployment in such regions, the magnitude of the public works needs in the respective regions, alternative availability of financing resources in the respective regions, the land area of the region in which government services must be provided, the population of the respective regions and other factors. However, nothing in this Section will require the Fund to issue an Insurance Commitment for ODFA financing assistance that does not meet the credit standards and other underwriting criteria of the Fund generally applied to all applicants.

[Source: Amended at 12 Ok Reg 2177, eff 7-14-95]

200:10-5-7. Proscribed activities

The Fund will not undertake to provide Insurance for any of the following purposes except as set forth in this section.

(1) **Retail facilities.** The Fund will not provide Insurance to facilities that are primarily a retail activity selling goods or services to the general public entering on the premises, unless such retail facilities are functionally related and subordinate to another activity eligible for Insurance.

(2) **Commercial real estate developments.** The Fund will not provide Insurance for facilities that are primarily commercial real estate development for speculative investment purposes. As used in this paragraph, "Speculative" means a facility where less than seventy-five percent (75%) of the proposed space is subject to a lease with a term at least equal to the term of the underlying loan or subject to an agreement with a committed buyer; provided, however, the lessee(s) or buyer(s) of such space will be subject to a determination of insurability by the Credit Officer.

(3) **Wholesale facilities.** The Fund will not provide Insurance to facilities that are primarily a wholesale activity selling goods or services to the general public entering on the premises, or selling goods or services to retail establishments, unless such wholesale facilities are functionally related and subordinate to another purpose eligible for Insurance. This proscription will not apply to a Distribution Center Facility.

(4) **Medical clinics and professional office space.** The Fund will not provide Insurance for medical clinics or professional office space unless it is demonstrated by sufficient evidence that the subject community would be deprived of essential professional services without such Insurance support.

200:10-5-8. Program guidelines

The Board reserves the right to initiate and develop guidelines which are not inconsistent with the rules of this Chapter, regarding participation in any specific ODFA financing assistance Program which may utilize Insurance Commitments of the Fund.

SUBCHAPTER 7. INSURANCE COMMITMENT AMOUNTS, PREMIUMS AND SECURITY

200:10-7-1. Insurance Commitment amounts

The Fund will seek to assist as many Persons as practicably possible to achieve geographic diversity of commitments and the broadest distribution of benefits throughout the State of Oklahoma.

(1) **Maximum Insurance Commitment amount for Public Section Projects.** The maximum amount of an Insurance Commitment for any one Project or Program participant will be \$5,000,000.

(2) **Maximum Insurance Commitment amount for Private Sector Projects.** The original principal amount of an Insurance Commitment shall not exceed Two Million Five Hundred Thousand dollars (\$2,500,000.00).

(3) **Minimum Insurance Commitment amount.** The minimum amount of an Insurance Commitment for any one Project or Program participant using Revenue Bonds will be \$200,000 the actual insurance commitment may be smaller when used in guaranteeing an obligation authorized under the Small Business Credit Enhancement Program.

[Source: Amended at 10 Ok Reg 1583, eff 5-13-93; Amended at 12 Ok Reg 2177, eff 7-14-95]

200:10-7-2. Premiums

The Fund will charge a monetary premium to the ODFA for the utilization of the benefits provided by the Insurance and the risk assumed by the Fund. The ODFA will pass this cost through to the users of the proceeds of its revenue bonds or other financial obligations.

(1) **Factors considered in determining premium.** The amount of the premium charged by the Fund will vary according to various factors involved including:

(A) The perceived relative risk category of various purposes or types of ODFA financings based upon the relative risk categories used in the private credit enhancement industry.

(B) The credit evaluation performed by the Credit Officer in connection with the Insurance Commitment.

(C) The secured collateral position of the Insurance Commitment.

(D) The perceived relative risk of the industry in which a private sector Person conducts its operations.

(E) Whether the Credit Officer qualitatively judges the risk to be low, moderate, or high compared to other similar Insurance Commitments.

(F) The length of time that an Insurance Commitment will be outstanding.

(G) The perceived exposure of the Fund considering whether the Insurance is pro-rata, leveraged, or co-insured.

(H) Such other factors, whether quantitative or qualitative, that the Credit Officer or the Board deem relevant.

(2) **Amount and method of calculation of premium.** The range of premiums charged according to the risk evaluation determined for the utilization of the Fund will be from one-fourth of one percent (0.25%) per year to three percent (3%) per year of the Insured principal amount outstanding.

(A) In the sole discretion of the Administrator, the premium may be charged as a one time or single premium charge; provided however, that in such event the amount to be due over the time period of the

Insurance Commitment will be discounted to a present value at an interest rate discount factor determined at that time by the Administrator and generally applied to applicants to the Fund. The single premium charged may be paid from the proceeds of the revenue bonds or other financial obligations issued for such applicant.

(B) The Fund will be entitled to the full amount of the premium over the term of the Insurance. If the underlying loan is repaid or Insurance is terminated without claim, loss or payment by the Fund before the end of the underlying loan term, the Administrator will waive the balance of premiums claimed or, if the full premium was paid in advance, the Administrator will refund the balance of the unearned premium.

200:10-7-3. Debt service reserve

As a condition to the issuance of an Insurance Commitment, the Administrator may compel any private sector applicant and any enterprise revenue public sector applicant to fund and maintain a reasonably required debt service reserve in connection with any revenue bond or other financial obligation issued by the ODFA for such applicant. This reserve will be invested only in cash or cash equivalents or in Eligible Investment Securities and will constitute additional security to assure the prompt payment of principal, interest and other obligations of the borrower. The funding of the reasonably required debt service reserve may be paid from the proceeds of the applicant's borrowing.

200:10-7-4. Commitment to be secured

The Administrator will require such security from the applicant as it deems necessary in the circumstances of the Insurance Commitment.

(1) Except for a public sector entity or an obligation approved in connection with the Small Business Credit Enhancement Program or the Quality Jobs Investment Program, such security will include, but not be limited to:

(A) a first mortgage or coordinate first mortgage on real property, facilities or systems and fixtures located thereon; or

(B) a second mortgage on real property, facilities or systems and fixtures located thereon, provided the amount thereof may not exceed \$1,000,000.

(2) In addition, the Administrator may require a security interest in personal property, revenues, marketable securities, or other assets, provided Cash or cash equivalents and Eligible Investment Securities will be accepted as collateral at one hundred percent (100%) of their market value; or pledge, liens, or other forms of collateral, including assignment of leases or contracts, personal or corporate guarantees, letter of credit, and after acquired property, to secure the obligation of the borrower.

(3) The Administrator may discount the value of any out of State collateral securing the Insurance.

[Source: Amended at 12 Ok Reg 2177, eff 7-14-95]

200:10-7-5. Insurance to value

The amount of the Insurance commitment will be determined by the credit evaluation, by the exposure of the Fund and by specific program guidelines as may be developed pursuant to 200:10-5-8. In no event will the maximum amount of the

Insurance Commitment exceed the limits set forth in this Section except for obligations exempted under the Quality Jobs Investment Program.

(1) **Private sector.** The maximum amount of the Insurance Commitment in enhancing private sector financing or refinancing of facilities will be limited as set forth in this Section.

(A) **Real property.** For costs of financing or refinancing real property, including soft costs associated with the construction or development of the facilities and the Insurance premium, the amount of the Insurance Commitment will not exceed ninety percent (90%) of the lower of:

- (i) the actual certified and documented costs of such Project; or,
- (ii) the appraised (as built) fair market value of the real property as indicated in an independent appraisal by an MAI appraiser or such other independent appraiser as is acceptable to the Administrator.

(B) **Personal property.** For costs of financing the acquisition of personal property, e. g., machinery and equipment, the amount of the Insurance Commitment will not exceed seventy-five percent (75%) of the actual certified or documented installation cost, including the expense of delivery, refurbishing and installation. The Fund may require an independent appraisal in connection with establishing a fair market value for such personal property and in such case, the amount of the Fund commitment may not exceed seventy-five percent (75%) of the lower of:

- (i) the fair market value of such personal property; or
- (ii) its documented installed cost.

(C) **Current assets and other personal property.** Insurance Commitments, or portions thereof, secured by accounts receivable, inventory, other current assets and other personal property will not exceed fifty percent (50%) of the value of the collateral as determined by the Administrator or its designee.

(D) **Cash or cash equivalents and eligible investment securities.** Insurance Commitments, or portions thereof, secured by cash or cash equivalents or by Eligible Investment Securities will not exceed one hundred percent (100%) of their market value.

(E) **Project completion.** All improvements in private sector financing shall be complete prior to the issuance of insurance. Project completion shall be determined by the Authority's Executive Officers upon recommendation of the Credit Officer.

(F) **Other requirements.** Funds invested by the Authority pursuant to the Quality Jobs Investment Program shall be matched, at least, equally by private sector investments. The private sector investments shall be at risk prior to ODFA's direct, indirect or guaranteed amounts. An amount equal to ODFA funds, guarantees or indirect investments plus the private sector matching funds shall be invested in projects within the boundaries of the State of Oklahoma. However, this shall not prohibit private sector investment enterprises from investing other funds not generated by ODFA or CERF activities or considered as part of the matching funds used to attract ODFA capital in projects outside of the State of

Oklahoma.

(2) **Public sector.** The maximum amount of an Insurance Commitment in enhancing a public sector entity financing (or refinancing) of facilities or Program participation will not exceed one hundred percent (100%) of the entity's cost of financing, refinancing or Program participation.

[Source: Amended at 10 Ok Reg 1583, eff 5-13-93; Amended at 12 Ok Reg 2177, eff 7-14-95]

200:10-7-6. Amortization of underlying financing

The principal amount of the underlying financing for which the applicant seeks Insurance will be amortized on a repayment schedule calculated on a straight line or a more accelerated basis (unless an unfunded depreciation account is created) over a period not to exceed the estimated useful life of the asset being financed except for obligations approved in accordance with statutes authorizing the Quality Jobs Investment Program, but in any event not to exceed twenty-five (25) years for real property and not to exceed fifteen (15) years for personal property, although the underlying financing may mature at an earlier date.

[Source: Amended at 12 Ok Reg 2177, eff 7-14-95]

SUBCHAPTER 9. INSURANCE APPLICATION PROCEDURE

200:10-9-1. Application

Each Application For Insurance (the "Application") must be made on the form prescribed by the Administration. Each Application form must be signed by an authorized officer of the Person that is making the Application For Insurance.

200:10-9-2. Application information package

To be eligible for consideration each Application must be completely filled out with the information requested on the form. The Application package will include:

- (1) A completed "Application For Financing" form of the ODFA, including all the related attachments thereto and the most recent interim financial statements, together with comparative statements for the same period in the previous fiscal year.
- (2) If the Application is for a private sector financing for a closely held Person, the federal (information) income tax returns for such Person for the most recent three (3) prior fiscal years as filed with the Internal Revenue Service.
- (3) A cash flow forecast, including pro-forma balance sheets and income statements, together with the related assumptions expressed in writing, showing the forecasted revenues and expenses of the Person, including the new debt to be financed by the financing assistance underlying the Insurance Commitment, for a period of up to five (5) years at the Administrator's discretion.
- (4) Demonstration of the past experience and managerial ability of the Person applying for Insurance.
- (5) The appraisal or certified cost information required in 200:10-7-5.
- (6) If the Project involves construction, the plans and specifications prepared for the construction of the Project and a detailed line item cost budget for the Project.
- (7) Personal financial statements of the owner(s) of the business.

- (8) The Administrator will require completion of an environmental questionnaire to assess potential environmental risk hazards and may require environmental site assessments.
- (9) Such other information as the Administrator reasonably requires in relation to the Insurance Commitment.
- (10) A non refundable application fee in the amount that as is currently in effect.

200:10-9-3. Submission of application

- (a) Each completed Application must be submitted to the Administrator at its official office in Oklahoma City. The Administrator is authorized to reject any Application that is not complete or does not conform with the statutory requirements for an eligible project or which does not comply with this Chapter.
- (b) All Applications, including the required attachments, should be in seven (7) copies and must be submitted to the ODFA office at least thirty (30) days prior to a Board meeting in order to be considered as such meeting. The applicant may be required to submit additional copies of the Application package for transmission to the Board.

200:10-9-4. Written report and recommendation by credit officer

The Credit Officer must prepare a credit evaluation and written credit report on the applicant and its Project, together with the Credit Officer's action recommendation thereon. The credit evaluation and report will be submitted to the Board.

SUBCHAPTER 11. GENERAL APPROVAL STANDARDS AND CRITERIA

200:10-11-1. Approval by ODFA Board Of Directors

Prior to the issuance of an Insurance Commitment, the Board must approve such issuance by a resolution which authorizes its officers to execute and deliver the Insurance Commitment to the respective applicant.

200:10-11-2. Standards and criteria for application approval

The ODFA recognizes that the monies available for the Fund from the issuance of the General Obligation Bonds and other sources are a precious resource and should be made to deserving and viable applicant. In addition to the Application and related information submitted by the applicant and the written credit evaluation and report by the Credit Officer, the Board may consider general and non-exclusive criteria for Application approval, including, but not limited to the following:

- (1) **Financial condition/responsibility.** The Board will consider whether the Person is financially responsible to assume the financial obligations of the underlying financing assistance and all other obligations of such Person applying for an Insurance Commitment to the end that adverse risk selections are avoided to the extent reasonably possible.
- (2) **Compliance with laws and Declaration of Trust.** The application and proposed Project or Program must be in compliance with all applicable and relevant federal, state and local laws and rules and regulations and with the Declaration of Trust, as amended, and applicant must possess all necessary and incidental legal rights and privileges necessary for project commencement and operation or for Program participation.

- (3) **Eligibility.** The applicant and proposed Project or Program must be determined to be eligible for the credit facility support sought.
- (4) **Local need, support and priority.** The proposed Project or Program must be found to be sufficient, as proposed, to serve such needs. The Board also may consider the Project's or Program's relative benefit and priority in relation to the needs of other proposed Projects, Programs and Applications. The Board also may consider the extent and degree of local support, interest and commitment in and to the proposed Project or participation in a Program.
- (5) **Availability of other assistance.** The Board may consider the feasibility and availability of alternative sources of financing or credit facility support which could be obtained and utilized by the applicant.
- (6) **Economic feasibility.** The Board will consider the overall apparent economic viability and feasibility of the Project as a whole including proposed revenues from the Project and the adequacy and reliability of estimated revenues necessary to meet repayment of the underlying financing assistance and all other obligations of the applicant.
- (7) **Statewide needs and public interest.** The Board may give consideration to the relationship between the proposed Project or Program and the overall needs within the State of Oklahoma as well as whether the proposed Project, if constructed, or Program, if consummated, will serve the public interest and welfare.
- (8) **Planning and technical support.** The Board may consider the planning and technical support for the Project, particularly for Insurance for Infrastructure and capital improvement facilities, to the end that duplication or inefficient use of facilities is avoided and sound regional planning or inter-governmental cooperation is furthered.
- (9) **Comparative requests.** The Board may consider the amount of Insurance requested by each applicant compared with the aggregate amount of Insurance requested by other current applicant.
- (10) **Employment and other public purpose benefits.** The Board may consider qualitative and quantitative factors to determine the extent to which an applicant will:
- (A) Create additional employment opportunities in the local community and the State of Oklahoma;
 - (B) Preserve and save employment opportunities in the local community and the State of Oklahoma;
 - (C) Improve the productivity of enterprises operating, or to be operated, in the State of Oklahoma;
 - (D) Provide value added processing or production to commodities or goods;
 - (E) Reduce energy consumption, reduce transportation costs or provide other competitive advantages to enterprises operating, or to be operated, in the State of Oklahoma;
 - (F) Create related employment opportunities;
 - (G) Diversify economic activity in the State of Oklahoma; or
 - (H) Attract new monies into the State of Oklahoma which will further stimulate economic activity.
- (11) **Public revenues.** The Board may consider an estimate of the dollar amount of taxes and other public revenues that may accrue to the State of Oklahoma and the local community as a result of the placement of the

Project or the accomplishment of the Program; the multiplier effect of economic activity in such area; and the diversification of the tax base.

(12) **Improved government operations.** For a public sector applicant, the Board may consider the extent to which a Project or a Program participation will increase the enterprise or tax revenues for government operations, will reduce the cost of government operations, or will improve the efficiency of such operations.

(13) **In state relocations.** If relocation of any ongoing business concern is made from one location within the State of Oklahoma to another location within the State of Oklahoma, the Board may consider the distance between the old and new facility and the relative advantages and disadvantages served by the relocation.

(14) **Educational, cultural and recreational opportunities.** The Board may consider the extent to which a Project or a Program will expand qualitative educational, cultural and recreational opportunities for residents of, or will help to attract tourists and visitors to, the State of Oklahoma.

200:10-11-3. Criteria applicability; review on individual merits

The general criteria set forth in 200:10-11-2 are intended to constitute general guidelines and standards for application review and consideration by the Board. The criteria will not be deemed appropriate for strict application and interpretation nor will the criteria be deemed exclusive. In all instances, each individual application must be reviewed and considered on its own individual merits. Accordingly, the criteria and standards set forth in 200:10-11-2 will be interpreted and applied to allow sufficient flexibility in the ultimate exercise of the Board's judgement and discretion. No formal finding or decision by the Board, written or oral, is required with respect to its consideration of the criteria iterated in Section 200:10-11-2.

200:10-11-4. Issuance of Insurance Commitment; rejection of application

(a) After approval by the Board of an application for Insurance, a Commitment will be issued setting forth the terms and conditions upon which ODFA financing assistance will be insured, including special requirements applicable to the project and requiring the submission in final form within a time specified of all appropriate documents, drawings, plans, specifications, appraisals, bonds, guarantees, permits, approvals, surveys, title insurance, opinions, financial statements, cost and other certifications and other instruments evidencing full compliance with requirements in form and content satisfactory to the Administrator.

(b) If such use of Insurance has not been approved by the Bond Oversight Commissions, the Commitment will be conditioned on the granting of such approvals.

(c) A Commitment shall be effective for a stated period. A Commitment may be renewed in the manner stated in the Commitment.

(d) If, upon examination of the application and supporting information, the Board rejects such application, the applicant will be so informed.

200:10-11-5. Approval by Oversight Commissions

Prior to the issuance, execution and delivery of Insurance by the Board, the Oversight Commissions must also approve any bonds or indebtedness being issued by the ODFA to the extent the bonds or indebtedness are enhanced or supported by the Fund pursuant to the Act except for obligations exempted under the Quality

Jobs Investment Program. [62:695.9 and 74:5063.4(F)]

[Source: Amended at 12 Ok Reg 2177, eff 7-14-95]

SUBCHAPTER 13. HEARING PROCEDURES

200:10-13-1. Hearing notice

In the event it is determined to hold a hearing on an Insurance Application or on any other matter pertaining to the Fund, prior notice will be given which will include the time, place, and subject of the hearing. Notice of the hearing may be given by United States mail addressed to the address indicated on the Application, postage prepaid, or telephonically at the phone number provided to the Administrator in the Application. Service of notice will be complete upon accomplishment of actual notice, upon a receipt of the return receipt card showing receipt of certified mail by the addressee, or upon the posting of notice or first publication thereof, as the case may be.

200:10-13-2. Conduct of hearing

If any hearing is conducted before the full Board, the Chairman or Vice-Chairman of the Board will preside over the hearing. A hearing may be part of a scheduled meeting of the Board. A party to a hearing will be given sufficient opportunity to make a presentation and present exhibits and other support data to the Board. The Board or its officers or counsel may ask questions of any party to the proceedings.

200:10-13-3. Hearing Officers

The Chairman of the Board is hereby authorized to appoint any Director or any officer of the ODFA as a Hearing Officer for the purpose of conducting a hearing. A Hearing Officer so appointed will hear testimony and receive evidence. The Hearing Officer must then make a recommendation to the Board stating the reasons for the recommendation and the facts supporting the recommendation. The Board may then consider the findings of the Hearing Officer and may render its decision. The President, with consultation of a Director appointed as a Hearing Officer, or the Chairman of the Board, will schedule such hearings and insure that the applicants receive proper notice of the hearing. Continuances of such hearings may be granted upon showing of good cause.

200:10-13-4. Record of hearing

A record of hearing, by means of tape recording or shorthand notes, will be made of any hearings unless the party to a hearing notifies the Board or Hearing Officer prior to the hearing that it wishes a court reporter to transcribe the hearing at such party's expense. A transcript of the proceedings will not be transcribed except upon written application by any party to the action. The party requesting transcription will bear the cost and will pay a fee according to a schedule established by the Administrator. An initial deposit set by the Administrator also must be paid by the party requesting a transcript. The record of a hearing and the file containing the proceedings will be maintained in a place designated by the Administrator. The tape recordings of the proceedings shall be maintained for a period on one (1) year. All minutes of any hearing in individual proceedings will be in writing. The minutes will include any actions taken by the Board showing the record of their individual votes cast.

SUBCHAPTER 15. MISCELLANEOUS PROVISIONS

200:10-15-1. Inspection of works, books, and records

From the time of first application, throughout all stages of construction, acquisition or Program implementation, or at any other time while any assistance from the Fund to the applicant is outstanding, the Administrator will have the right to inspect any and all projects, and any and all incidental works, areas, facilities and premises otherwise pertaining to the Project or Program for which application is made or the instruments, documents or information possessed by the applicant or its contractors, agents, employees or representatives which relate in any respect to the receipt, deposit and/or expenditure of funds. By making application for Insurance, all Applicants will be deemed to consent and agree to the right of reasonable inspection provided in this Section and all applicants must allow the Administrator all necessary and reasonable access and opportunity for such purposes.

200:10-15-2. Project modifications

After an application for Insurance has been approved, no change, modification, amendments, or departure otherwise to or from the approved plans and specifications which would materially or significantly affect total project cost or value, estimated revenues, or design will be made, allowed or authorized without the prior written approval of the Administrator.

200:10-15-3. Fees related to insurance application and issuance

The Administrator will establish a non refundable fee for an Application for an Insurance Commitment. If an Insurance Commitment is granted, a premium will be charged for the issuance of Insurance in the manner set forth in 200:10-7-2. In addition, applicant may be required to pay for closing fees and expenses related to the issuance of Insurance, as established by the Administrator.

200:10-15-4. Project completion, inspection and audit

Upon completion of any Project for which Insurance has been provided, the applicant will furnish the Administrator written notification of completion. Upon receipt of such notification, or upon Project completion should notification not be furnished as required herein, the Administrator may conduct a final on-site inspection of the Project and an audit of any and all funds furnished to the applicant which are the subject of the Insurance Commitment.

200:10-15-5. Special Fund limited obligation

The obligation of the Fund will be limited to the monies on deposit therein, or committed to be deposited therein, and the net proceeds of the General Obligation Bonds. Any description of Insurance shall expressly indicate the limitation of the liability of the Authority and that neither the credit nor the taxing power of this state or any political subdivision thereof shall be available to satisfy any obligations with respect thereto. [74:5062.12]

200:10-15-6. Procedure for adoption, amendment or repeal of rules

(a) **Notice.** Prior to the adoption, amendment, or repeal of any rule, the Administrator will give notice in accordance with the requirements of the Oklahoma Administrative Procedures Act. This notice will include a statement of

either the terms or substance of the intended action specified in the notice. This notice will be mailed to all persons who have made a timely request of the Administrator to receive advance notice of its rule-making proceedings.

(b) **Public input.** The Administrator will afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing, concerning proposed action on a rule.

(c) **Emergency rules.** The Administrator may adopt an emergency rule if it determines that there is an imminent peril to the public health, safety and welfare. The Administrator must state its reasons for the emergency to the Governor who must certify that the emergency exists.

(d) **Filing and effectiveness of rules; hearings.** All rules of the Administrator will be filed and will take effect according to the provisions of the Oklahoma Administrative Procedures Act. Unless otherwise specified by the Administrator in the required notice, all rule-making hearings will be conducted in the Administrator's official office in Oklahoma City. Any interested person may appear, individually, by an attorney or by authorized agent at the Administrator's rule-making hearings.

CHAPTER 15. [RESERVED]

CHAPTER 20. ADMINISTRATION OF ODFA-FINANCED PROJECTS

[Authority: 74 O. S., § 5062.8]

[Source: Codified 12-12-91]

SUBCHAPTER 1. GENERAL PROVISIONS

200:20-1-1. Purpose

This Chapter sets forth the policy process and procedure of The Oklahoma Development Finance Authority (formerly The Oklahoma Development Authority and so referred to in this Chapter) for financings not subject to the provisions of Chapter 10 of this Title.

200:20-1-2. Authority and scope

The rules of this Chapter have been promulgated and adopted pursuant to that certain Trust dated November 1, 1974 as amended October 9, 1975 (the "Declaration of Trust") creating The Oklahoma Development Authority (the "Authority") and as authorized by Title 75, Section 301 et seq., the Oklahoma Public Trust Act, Section Title 60, Section Title 176 through 180.3 (the "Act") and Declaration of Trust as otherwise authorized under the laws of the State of Oklahoma (the "State"). The rules of this Chapter have been enacted for the purpose of implementing and administering the powers, duties and responsibilities of the Authority as provided by the Act, and the Declaration of Trust, which provide generally for the Authority to finance certain projects for the provision to such an extent and in such a manner which is now or hereafter shall be a proper public function of the State; to institute, furnish, provide and supply services and facilities for the conservation and implementation of the public welfare and protection and promotion of the public health of the State; to promote and development of agricultural, industrial, cultural and educational activities within the State; and to provide funds for the costs of financing, acquiring, constructing, installing, remodeling and equipping facilities to provide for and accomplish the

foregoing.

200:20-1-3. Policy statement; interpretation and application of rules

(a) It is the duty and policy of the Authority to fully and expeditiously implement and administer the objectives, purposes and intent of the Declaration of Trust and the Act. The rules of this Chapter are accordingly adopted to assist in the effectuation and implementation of the Declaration of Trust and the Act.

(b) The rules, regulations, modes of procedure and Authority policies and guidelines in this Chapter provided shall in all instances be subject to and given a liberal, reasonable, fair and impartial construction interpretation and application to the end that the intent and purposes hereof may be obtained in compliance with the laws of the State and the public purposes sought to be served thereby.

SUBCHAPTER 3. USES OF FUNDS

200:20-3-1. Project and program costs for which financing may be expended

Funds made available by the Authority to an applicant for approved projects and programs may be utilized and expended by an applicant toward applicant's payment and financing of project and program costs, as approved by the Authority. For purposes of this Chapter, project costs include, but shall not be limited to, the following miscellaneous and general project cost item:

- (1) Costs of acquiring the facilities comprising the project;
- (2) Costs of acquiring and constructing other items included in the facilities, including obligations incurred for labor and materials by contractors, builders and materialmen;
- (3) Costs of restoration or relocation of property damaged or destroyed in connection with any construction;
- (4) Costs of premiums of contractors' performance, payment and completion bonds;
- (5) Costs of title insurance premiums;
- (6) Costs of machinery, equipment and related facilities acquired or purchased for inclusion in the facilities and the cost of shipping, transportation and installation thereof;
- (7) Taxes or other municipal or governmental charges levied or lawfully assessed against the facilities acquired during the period of acquisition;
- (8) Costs of insurance premiums in connection with acquisition of the facilities;
- (9) Costs of architects' and engineers' services related to the project prior to and during the period of acquisition;
- (10) Payment or reimbursement of the applicant for interim financing loans and advances and all costs thereof;
- (11) Abstract and title opinion costs;
- (12) Costs of project legal fees and expenses of counsel for the Authority, bond counsel and other necessary counsel;
- (13) Costs of fees of other consultants of applicant;
- (14) Recording fees;
- (15) Loan insurance expenses;
- (16) Other costs of publishing and printing proceedings incident thereto;
- (17) Costs of bond insurance fees and letter of credit fees;
- (18) Costs of bond trustees, co-trustees, paying agents fees and expenses;
- (19) Costs of underwriters fees; and

(20) Such other reasonable and necessary expenses as may be required to complete and carry out the terms of the proposed project or program subject to approval of a majority of the Trustees.

[Source: Amended at 12 Ok Reg 2183, eff 7-14-95]

SUBCHAPTER 5. FINANCING APPLICATION, REVIEW AND APPROVAL

200:20-5-1. General procedure for application, review and consideration

The general procedure to be followed in the application, review and consideration for financing process shall be as follows:

(1) **Pre-application conference.** While not specifically required, all potential applicants are encouraged to initially contact the Authority for purposes of making arrangements for participating in a pre-application conference between Authority, Authority's counsel, applicant (or representative), applicant's legal and financial advisor and such other persons whose attendance and participation may be deemed appropriate and beneficial. At the pre-application conference, preliminary matters respecting the applicant, the proposed project and the application for financing may be generally discussed in an effort to familiarize all concerned parties with the financial assistance program and applicable application requirements and procedures. If possible an applicant may be given a preliminary indication by the Authority representatives concerning whether the project conforms with trust purposes, Oklahoma and Federal law. In addition, the applicant will be notified that even if trust purposes are met, the project may be rejected for financing on numerous criteria developed by the Authority if the Authority determines these criteria are not adequately served.

(2) **Application.** Applicant shall initiate application review and consideration by submission to the Authority of applicant's application for financing. In all instances, applications must be written and in a form which meets the requirements of Subchapter 7.

(3) **Preliminary review.** Upon receipt of the application by the Authority, the submitted application shall be given preliminary review by the Trustees and Authority's counsel for an initial determination of project eligibility, applicant eligibility and for completeness and accuracy of all required and necessary information.

(4) **Final review.** Subsequent to preliminary review and based upon the determination of eligibility and adequacy of information submitted, the application shall thereafter be reviewed by the Trustees and Authority's counsel for recommendation to the Authority. In this endeavor, Authority shall review and investigate the application for the purpose of determining compliance with considerations and factors and criteria deemed relevant and necessary for purposes of inducement action by the Authority.

(5) **Initiating bond issues notice.** Prior to any inducement resolution or official steps in development of any project, a copy of the application shall be submitted to the Office of the Governor describing, among other things required, the type of project contemplated and the public purpose served thereby.

(6) **Authority action.** Upon completion of review, the submitted application with recommendations, if any, shall be placed upon the

Authority's agenda for the next regular (or special) Authority meeting and shall be thereby submitted to the Authority for hearing, review and consideration and Authority action. At such hearing, any interested person may appear and be heard.

200:20-5-2. Application for financing

(a) **Application form.** Printed application for financing forms shall be, to the extent deemed appropriate, furnished by the Authority. All applications must be completed by the applicant either on written forms as may be provided by the Authority or in such other written form as the Authority may require.

(b) **Required general information.** The following general information, where deemed by the Authority to be applicable to the applicant and project or program under consideration, must be submitted by applicant within each application:

- (1) Applicant's full, true and correct legal name, official residence and mailing address if different from official residence.
- (2) Type of entity.
- (3) Name and address of parent or affiliated company.
- (4) Description of business.
- (5) Names and addresses of officers, directors, principal stockholders or partners (identify managing partner).
- (6) Name and address of applicant's project legal counsel, underwriter, bank and accountant.
- (7) A statement of the manner and means by which applicant intends to finance the entire project if less than 100% is to be financed through the Authority. Information whether an application is to be filed with The Oklahoma Industrial Finance Authority and, if so, the amount. However, the OIFA financing is limited to 25% of the amount requested from the Authority.
- (8) Applicant must provide a copy of applicant's previous five (5) years annual financial statements, current statements through the quarter preceding the application, and a copy of the most recent annual report, if any.
- (9) A brief but adequate description of the proposed project or program for which application is made, including but not limited to the following:
 - (A) Information regarding the type of project facility (existing, new facility or expansion) or information concerning the necessity of the program which addresses pertinent information, including the standards and criteria set forth in 200:20-5-3(a).
 - (B) Address of proposed facility, if any.
 - (C) Information regarding the site ownership (whether site is currently owned by applicant or site is under option).
 - (D) Information regarding the project data (size of site, site of building, size of office, whether project is to be leased and if so, to whom and relationship).
 - (E) Information regarding the employment (present employment, new employment to be created over the following three years, total projected, each detailed by number and annual payroll).
 - (F) Description of project in detail, including, if applicable:
 - (i) a general description of the facility to be constructed or acquired,
 - (ii) the type of machinery and equipment to be acquired,

- (iii) a brief description of the product(s) to be manufactured at the facility,
- (iv) the manufacturing process to be performed at the site, and
- (v) the ultimate consumer of the product(s).

(G) Information concerning the program in detail including objectives to be financed or accomplished.

(10) Information regarding the financing, where applicable, on the following related information:

(A) Anticipated total cost of project or program and justification therefor.

(B) Total amount of funds requested by applicant for project assistance from the Authority including a statement of the specific uses and purposes for which such funds are intended to be applied, including costs of land, buildings, equipment or specified uses in the program.

(C) Description of terms of financing, including:

- (i) Whether issue is a private placement or public offering and if a private placement, the name of purchaser of obligation.
- (ii) A copy of commitment letter issued by purchaser, if any.
- (iii) Estimated interest rate and term, and, when available, comparative information from other possible purchasers reflecting that this is the best purchaser.
- (iv) Commitment fee.
- (v) Security, if applicable, mortgage and security interest, assignment of rents, guaranty and by whom.

(D) Annual financial statements of Guarantors, if any, for the prior year and current statements through the quarter preceding the application.

(c) Other necessary information.

(1) Where applicable to the particular project for which financing is sought, the following additional information must be submitted with the application:

- (A) Employer's identification number.
- (B) Fiscal year ends.
- (C) Which district IRS office returns are filed.
- (D) Detailed statement whether applicant has been involved in any bankruptcy, receivership, reorganization, liquidation of compromise with creditor.
- (E) Identity of customer and percentage, if any one customer is responsible for a major portion of the applicant's annual sales.
- (F) Description, if applicable, of any relationship between the applicant, its officers, directors, shareholders or partners, or any underwriter or institution purchasing the Authority's obligation, and any Trustee of the Authority.
- (G) Comprehensive statement clearly demonstrating project need and the degree and extent of local support for the project. Such statement must be in sufficient detail to support and justify the project and should describe all aspects of present local support and approval for the project. Applicant may include letters or statements

of support from any interested persons or agencies.

(2) The Authority reserves the right to require applicant to submit such further or additional project information as may be deemed necessary for proper project review under the particular facts and circumstances of any specific project proposal.

(d) **Application certification.** All applications for financing must be duly certified by the applying entity (authorized representative) at the time of submission.

200:20-5-3. Standards and criteria for approval

(a) **General standards and criteria.** In the review and consideration of applications for financing the Authority may give consideration general and non-exclusive criteria for application approval, including, but not limited to the following:

(1) **Compliance with laws and Declaration of Trust.** The application and proposed project must be found to be in compliance with all applicable and relevant federal, state and local laws and regulation and with the Declaration of Trust, and applicant must possess all necessary and incidental legal rights and privileges necessary for project commencement and operation.

(2) **Eligibility.** The applicant and proposed project must be determined to be eligible for the assistance sought.

(3) **Local need, support and priority.** The project must be found to be needed in the area to be served and must be found to be sufficient, as proposed, to serve such needs. The Authority shall additionally consider the project's relative benefit and priority in relation to the needs of other proposed projects and applicants. The Authority shall also consider the extent and degree of local support, interest and commitment in and to the proposed project.

(4) **Availability of other assistance.** The Authority shall consider the feasibility and availability of alternative sources of revenue which could be obtained and utilized by applicant for project financing.

(5) **Economic feasibility.** The Authority shall consider the overall apparent economic viability and feasibility of the project as a whole including proposed revenues from the project and the adequacy and reliability of estimated revenues necessary for loan repayment when indicated.

(6) **Project feasibility.** The Authority shall consider from the engineering and architectural data submitted and otherwise available whether the proposed project appears to be feasible.

(7) **Statewide needs and public interest.** The Authority shall give consideration to the relationship between the proposed project and the overall needs within the State of Oklahoma as well as to whether the proposed project if constructed, will serve the public interest and welfare.

(8) **Availability of funds.** The Authority shall take into consideration the current and anticipated availability of the State Cap, when applicable, needed to provide the financial assistance requested.

(9) **Previous business.** Participation by the applicant, where applicable, in prior issues of the Authority.

(10) **Other requests.** The amount of financing requested by each applicant compared with the aggregate amount of financing requested by all applicants.

(11) **Employment.** Number of persons to be employed by the project.

(12) **Tax impact.** An estimate of the dollar amount of taxes that may accrue to the state and the local community as a result of the placement of the facility.

(13) **Competition.** The number of identical or similar facilities in the locale.

(14) **Relocation.** If relocation of any ongoing business concern is involved, the distance between the old and new facility and the advantages served thereby.

(15) **Financial strength.** Applicant's financial statements.

(b) **Criteria applicability.** The general criteria set forth in (a) of this Section is intended to constitute and shall constitute general guidelines and standards for application review and consideration by the Authority. Such criteria shall not be deemed appropriate for strict application and interpretation nor shall such criteria be deemed exclusive. In all instances, each individual application and project must be reviewed and considered on its own individual merits. The criteria and standards set forth in (a) of this Section shall, accordingly, be interpreted and applied so as to allow sufficient flexibility in the ultimate exercise of the Authority's judgment and discretion. No formal finding or decision by the Authority, written or oral, is required with respect to its consideration of the foregoing criteria.

(c) **Medical clinics and doctors' offices.** No medical clinics or doctors' offices shall be financed unless it is demonstrated by sufficient evidence that the subject community would be deprived of essential medical care without such financial incentives.

200:20-5-4. Authority inducement action

After reviewing and considering the submitted application, the Authority may proceed to take one of the following alternative forms of Authority action on the application:

(1) The Authority may approve the application as submitted, in whole or in part, and thereby adopt an inducement resolution authorizing such further action as may be necessary to effectuate inducement. Such resolution shall include, among other things, a statement substantially to the effect that unless the bonds, notes or other obligations therein authorized are issued within one year from the date of its adoption, it shall expire and have no further effect, unless subsequently extended by action of a majority of the Trustees.

(2) The Authority may retain the application under advisement for further consideration or continue hearing on same for later ruling and disposition, and, the Authority may withhold ruling on the application pending further hearing and/or submission to the Authority of such further or additional information as the Authority may require for application consideration purposes.

(3) The Authority may reject and deny the application, in whole or in part.

(4) The Authority may approve the application, in whole or in part, such approval being conditioned and contingent upon receipt and approval by the Authority of any outstanding and necessary material, information, documents, verifications or other authorization, and thereby adopt an inducement resolution authorizing such further action as may be necessary to effectuate inducement.

(5) The Authority shall submit a Request for Approval from the Governor, if required by Oklahoma statute, Executive Order of the Governor of

provisions of the Internal Revenue Code or regulations thereunder.

(6) Following the adoption of the inducement resolution, the Authority and the applicant shall execute and deliver a Memorandum of Understanding relating to the project which may include provisions relative to estimated fees, expenses and funding utilization.

200:20-5-5. Authority final action

Subsequent to inducement action, the project shall be placed upon the Authority's agenda for a regular (or special) Authority meeting and shall be considered for final action. Upon final approval of a project, the Authority may adopt a final resolution authorizing and approving:

- (1) The Trustees executing and delivering an indenture of mortgage and loan agreement with the applicant for the purpose of financing the project;
- (2) The issuance, sale and delivery of bonds, notes or other evidences of indebtedness to finance the cost of acquiring, constructing, furnishing and equipping the project of the applicant; and
- (3) The Trustees executing and delivering such instruments, agreements, certifications and other documents as might be necessary to accomplish the financing of the project.
- (4) Setting a date by which a bond purchase agreement or similar agreement shall be executed and put into effect, which date may be subsequently extended by action of a majority of Trustees.

SUBCHAPTER 7. TERMS AND CONDITIONS OF ASSISTANCE AND DISBURSEMENTS

200:20-7-1. Evidence of indebtedness

Financing by the Authority contemplated within the rules of this Chapter shall be provided by the Authority for approved projects pursuant to such notes, bonds, revenue bonds or other appropriate form of evidence of indebtedness as issued by the Authority.

200:20-7-2. Loan interest and repayment

The Authority loan repayment interest rate to be paid by applicant to the Authority if any, shall be as determined by the Authority and approved by the applicant and shall be payable by applicant under such terms and conditions as the Authority may require. The Authority may, in its judgment and discretion, provide for the term, condition, manner, form and schedule of applicant's repayment to the Authority of principal and interest.

200:20-7-3. Security for financing

The Authority or the purchaser of the bonds or notes may require such security as it deems necessary, which such additional security may include but not be limited to such pledges, liens, revenues and/or mortgages on real estate, facilities or systems.

200:20-7-4. Conditions for disbursements

(a) After an application for assistance has received final approval from the Authority, the following conditions and requirements shall be met prior to the release and disbursement of any funds:

- (1) Applicant and Authority, and all other necessary parties, shall have executed all necessary and incidental instruments and documents for loan closing, including but not limited to all mortgages, notes, financing statements and pledges of project security and revenues where appropriate.
 - (2) If not previously provided, if applicable, applicant shall provide Authority with a written and verified statement setting forth:
 - (A) the amount of funds necessary for release and disbursement at closing which funds are needed for initial commencement of the project, and
 - (B) information reflecting the reasonable availability of and/or a commitment from all other revenue or funding sources needed to finance and complete the project.
 - (3) Prior to any financing, a complete disclosure of all fees relative to the project will be disclosed to the Authority and the Authority shall review said fees for reasonableness.
 - (4) The selection of the Trustee bank or banks and paying agents as approved by the Authority.
- (b) At the time of and upon compliance with the requirements in (a) (2) of this Section, and such other requirements as may be determined by the Authority, the Authority may issue one or more issues or series of revenue bonds or notes in an aggregate principal amount as agreed to by the Authority and applicant.

SUBCHAPTER 9. MISCELLANEOUS PROVISIONS

200:20-9-1. Inspection of works, books and records

From the time of first application, throughout all stages of construction, and at any other time while any assistance from the Authority to the applicant is outstanding, the Authority shall have the right to inspect any and all projects, and any and all incidental works, areas, facilities and premises otherwise pertaining to the project for which application is made. The instruments, documents or information possessed by applicant of its contractors, agents, employees or representatives which relate in any respect to the receipt, deposit and/or expenditure of funds. By making application for financing to the Authority, all applicants shall be deemed to consent and agree to the right of reasonable inspection provided in this Section all applicants shall allow the Authority all necessary and reasonable access and opportunity for such purposes.

200:20-9-2. Project modifications

After an application for financing has been approved by the Authority and after the Authority has reviewed and approved applicant's plans and specifications for the project, no change, modification, amendments, or departure otherwise to or from the approved plans and specifications which would materially or significantly affect total project cost, estimated revenues, or design shall be made, allowed or authorized without the prior written approval therefore by the Authority.

200:20-9-3. Public records

All records of the Authority relating to the financing contemplated within the rules of this Chapter shall be public records available for public inspection by any interested person at reasonable times and in a reasonable manner.

200:20-9-4. Application, acceptance and administration fees

Applicant shall be required to pay to the Authority any fee for the submission of an application for financing, an acceptance fee and administration fees as determined by the Authority.

200:20-9-5. Project completion, inspection and audit

Upon completion of any project for which financing has been provided, the applicant shall furnish to the Authority written notification of completion. Upon receipt of such notification, or upon project completion should notification not be furnished as required in this Chapter, the Authority may conduct a final on-site inspection of the project and an audit of any and all funds furnished to the applicant.