

**400 Delaware Economic Development Office**

**403 Administration and Operation of Council on Development Finance**

**1.0 Definitions**

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

**“Chairperson”** means the Chairperson of the Council.

**“Clawback”** means an obligation by a grantee to repay a part or all of a grant for a failure to meet benchmark employment, cessation of operations in the State, or other terms contained in the grant agreement.

**“Council”** means the Council on Development Finance.

**“DEDA”** means The Delaware Economic Development Authority.

**“DEDO”** means the Delaware Economic Development Office.

**“Director”** means the Director of DEDO in his or her capacity as Director, or as the Chairperson of DEDA.

**“Member or Members”** means the Members appointed to serve on the Council in accordance with 29 **Del.C.** §5007.

**“Project or Projects”** shall have the meaning given pursuant to 29 **Del.C.** §5052(12).

**“Strategic Fund”** shall have the meaning given pursuant to 29 **Del.C.** §§5027 – 5029.

**“Substantive Changes”** means

- a. a decrease of more than 1 percentage point in the interest rate for any fixed or variable rate loan made by DEDA;
- b. any changes in the collateral of a loan which would result in a decrease in the security position of DEDA;
- c. a 10% or greater increase in the amount of any loan or grant;
- d. an extension of loan payment schedule; and
- e. a change employment benchmark date or clawback in a grant agreement.

**17 DE Reg. 90 (07/01/13)**

**2.0 Enabling Legislation**

DEDO was established pursuant to 29 **Del.C.** §5003. The Council was established pursuant to 29 **Del.C.** §5007. DEDA was established pursuant to 29 **Del.C.** §5053. DEDO and DEDA have authority to make regulations pursuant to 29 **Del.C.** §§5005(11) and 5053(k).

**17 DE Reg. 90 (07/01/13)**

**3.0 Purpose**

The purpose of this Regulation is to enhance the coordination between the Council and DEDO and set forth certain procedures to be used in the administration and operation of the Council.

**4.0 Procedures**

- 4.1 In the event of any Council vacancy, Members will encourage the Governor to fill such a vacancy promptly.
- 4.2 The Council will, consistent with the provisions of 29 **Del.C.** Ch. 100 and 8 **DE Admin. Code** 1500, make certain information contained in a company’s application available to the public upon written request.
- 4.3 The Council will, when practicable, schedule and locate meetings of the Council in a way that achieves geographic balance and centrality.
- 4.4 Any substantive changes made to any agreement or contract excluding any agreement contract or associated document related to any conduit bond issued by DEDA, after initial review by the Council shall be resubmitted to the Council for additional review and recommendation.
- 4.5 DEDO will organize and provide orientation for all new Council Members. The orientation will include:
  - 4.5.1 the responsibilities of Council Members and DEDO staff;
  - 4.5.2 discussion of applicable state law/regulations; and

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- 4.5.3 a briefing by the staff of the Delaware Public Integrity Commission on matters, including but not limited to, rules of conduct, conflict of interest, and public disclosure.
- 4.6 The Council will, consistent with the State Employees', Officers' and Officials Code of Conduct, 29 **Del.C.** Ch. 58, encourage Members to identify prospective companies and business development opportunities to DEDO.
- 4.7 DEDO shall present an annual operating budget report to the Council for comment and review.
- 4.8 Any public disclosure of funding by DEDO, prior to approval by the Council by DEDO shall include a disclaimer which indicates that such funding is subject to review and recommendation of the Council.
- 4.9 DEDO shall provide an annual Portfolio Report to the Council for review, which shall include, but not be limited to, compliance with benchmark employment levels and repayment status for outstanding loans made by DEDA.
- 4.10 Council shall review any Strategic Fund loan or grant in which the applicant has not entered into a contract with DEDA within one year of approval.
- 4.11 DEDO staff will provide information to the Council on return on investment, gross State product and personal income tax data related to each Project where such information is used to determine the value of the Project in the Application Evaluation Report.
- 4.12 DEDO shall present biannual Strategic Fund cash management reports to the Council which shall include, but not be limited to total Strategic Funds balances, amounts encumbered (and corresponding dates of encumbrances), Strategic funds committed to future Projects and available Strategic Fund balances.

**11 DE Reg. 927 (01/01/08)**

**17 DE Reg. 90 (07/01/13)**