

3300 Business and Industrial Development Corporations**3301 Procedures Governing Applications to Form and Conduct Business as a Business and Industrial Development Corporation (BIDCO)**

Formerly Regulation No.: 5.3311.0001

Effective Date: January 11, 1993

This regulation establishes procedures for the form and content of applications under §3311(b) of Title 5 of the **Delaware Code** for permission to form and conduct Business as a Business and Industrial Development Corporation.

1.0 An application pursuant to §3311(b) of Title 5 of the **Delaware Code** shall be in writing, signed by the President or authorized representative of Applicant (a Delaware Corporation) and shall include the following:

- 1.1 A non-refundable investigation fee;
- 1.2 Name of applicant. Pursuant to §3311(a) of Title 5 of the **Delaware Code**, only a Delaware corporation can apply;
- 1.3 Certificate of Incorporation. To include general business clause under section 3.0;
- 1.4 Board Resolution authorizing applicant to make application on behalf of the corporation.
- 1.5 A detailed business plan setting forth the services to be provided by the proposed Bidco to business firms located within or outside of the State;
- 1.6 Directors-Current financial statements, Officers-Current financial statements and three (3) consecutive years prior;
- 1.7 Resumes for all officers and directors, including information concerning the experience of the management of the proposed Bidco and how such experience relates to the execution of the business plan referred to in item 1.5 of this regulation;
- 1.8 Completed officers and directors questionnaires, questionnaires furnished by the Office of the State Bank Commissioner;
- 1.9 A summary of the geographical business markets of the proposed Bidco;
- 1.10 Location of the proposed main office of the Bidco and any branch offices, or the vicinity thereof, including other offices, whether within or outside of the State (licensee is required to maintain not less than (1) office in this State);
- 1.11 A detailed summary of how the management of the proposed Bidco intends to implement a reasonable and prudent policy for conserving and investing the capital of such Bidco;
- 1.12 A summary of the types of business firms to be assisted by the proposed Bidco;
- 1.13 Three (3) years of detailed financial projections or until such time as profitability is obtained;
- 1.14 Evidence that the applicant has, or has firm financing commitments from equity investors or debt sources for, cash or similar liquid assets sufficient to demonstrate that prior to the time such applicant is authorized to transact business as a Bidco, such applicant will have liquid assets available to provide financing assistance to business firms in an amount adequate for such applicant to transact business as a Bidco and in accordance with the business plan;
- 1.15 Evident that the Bidco has, or will have, a net worth of not less than \$1,000,000 at the time it is licensed to transact business as a Bidco;
- 1.16 Any market studies which have been conducted by or on behalf of the applicant or as requested by the Commissioner;
- 1.17 A compensation schedule for all officers and directors for a minimum period of 3 years;
- 1.18 Name, resume, reference sources, and compensation schedule for any person(s) employed in an advisory capacity for the Bidco, and a description of their purpose(s) and involvement(s) in the affairs of the Bidco; and
- 1.19 Such other information the applicant may provide to support the application;

1.20 Such other information the Commissioner may require or deem appropriate to the application.

2.0 If, on the basis of the information submitted, the State Bank Commissioner concludes that the application for the proposed Bidco should be approved, he shall issue a findings and decision indicating his intent to approve the license.

3.0 Upon receipt of the Commissioner's Findings and Decision, the applicant should proceed to amend their charter to reflect the word 'Bidco' in their corporate name and amend the Article III to reflect that they intend to conduct the business of, and incidental to, a Bidco.

4.0 Upon receipt of the amended Certificate of Incorporation, and upon the applicant's payment of the appropriate licensing fee, the State Bank Commissioner shall issue a license permitting such applicant to form and conduct business as a Bidco at the address contained on the license.

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5.1 If on the basis of the information submitted or obtained through the investigation process, the State Bank Commissioner proposes to disapprove an application properly made under this regulation, he shall, pursuant to §10131(c) of Title 29 of the **Delaware Code**, give written notice to the applicant of the intended action and the reasons therefor. Such notice shall:

5.1.1 Describe the subject matter of the proceeding and the statutory authority therefor;

5.1.2 Inform the applicant of the proposed action and the reasons therefor;

5.1.3 Inform the applicant that it has a right to demand a hearing on the application at which hearing (a) the applicant would have the right to present relevant evidence, (b) to be represented by counsel, and (c) to appear personally or by other representative; and that the Commissioner is obligated to reach his decision based upon the evidence received; and

5.1.4 Inform the applicant of the period, not less than ten (10) days from the date of such notice, during which it may request a hearing on such application.

5.2 Should the applicant request a hearing under this section, the Commissioner shall fix a date for such hearing and shall provide at least twenty (20) days advance notice of such hearing date to applicant.