

**Assessment of Public Comment**

The agency received no public comment.

## Urban Development Corporation

### EMERGENCY RULE MAKING

#### Life Sciences Initiative Program

**I.D. No.** UDC-08-19-00001-E

**Filing No.** 73

**Filing Date:** 2019-01-31

**Effective Date:** 2019-01-31

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of Part 4255 of Title 21 NYCRR.

**Statutory authority:** Urban Development Corporation Act, sections 5(4), 9-c and 16-aa; L. 2017, ch. 58, part TT

**Finding of necessity for emergency rule:** Preservation of general welfare.

**Specific reasons underlying the finding of necessity:** Regulatory action is needed immediately to implement the statutory changes contained in Part TT of Chapter 58 of the Laws of 2017. The emergency rule amends the second component of the Life Sciences Initiative program, the New York Fund for Innovation in Research and Scientific Talent ("NYFIRST") Program, to streamline it and make it more attractive to potential applicants.

NYFIRST is intended to encourage the recruitment and retention of exceptional life science researchers and world-class talent at the state's medical schools to accelerate translational research. NYFIRST funds will be used to support the establishment or upgrading of laboratories for these researchers, purchases of capital equipment and specialized supplies needed for their research, and as working capital to cover costs of professional staff (including staff scientists, postdoctoral fellows, and technicians, but excluding the recruited researcher) critical to the proposed research.

The rule updates the administrative procedures for the NYFIRST program. It is critical to implement this program immediately because medical schools are eager to encourage translational research at their institutions, as such research often results in new intellectual property, start-up companies, and products with commercial promise. By waiting for the standard rulemaking process to unfold, the State risks losing important economic development opportunities to states with competing life sciences incentive programs.

**Subject:** Life Sciences Initiative Program.

**Purpose:** Amend NYFIRST component of the Life Sciences Initiatives program.

**Substance of emergency rule (Full text is posted at the following State website: [esd.ny.gov](http://esd.ny.gov)):** 21 NYCRR Part 4255 is amended as follows:

21 NYCRR 4255.3 covers the second component of the Life Sciences Initiative, the newly created New York Fund for Innovation in Research and Scientific Talent ("NYFIRST") Program. The authority and purpose section is amended to establish that working capital expenses are included under this program.

Next, the regulation lays out key definitions of this component and adds a new definition of "Specialized Supplies."

In its "Available Program Assistance" section, the regulation next makes clear that grantees shall submit twice yearly invoices, instead of quarterly invoices.

Next, the regulation discusses eligibility criteria for the NYFIRST program. It clarifies that program grants are intended to encourage the recruitment and retention by the state's medical schools of exceptional life science researchers and world-class talent focused on accelerating Translational Research. NYFIRST grants may be used to support the establishment or upgrading of laboratories for these researchers, for purchases of capital equipment and specialized supplies needed for their research, and as working capital to cover costs of professional staff (including staff scientists, postdoctoral fellows, and technicians, but excluding the recruited researcher) critical to the proposed research.

The regulation next covers specifics of the application and the evalua-

tion process for NYFIRST grants. The specific selection criteria are delineated in the regulation. Importantly, the Corporation intends to make Program grant awards through a competitive grant solicitation to qualifying Applicants, twice annually until the funds under this Program are fully committed.

The regulations now clarify several important administrative items. For example, the offer of employment to the Principal Investigator by the Applicant must be made between the date of availability of the NYFIRST application for a given application cycle and the application deadline for that cycle. Acceptance of such offer also must occur between the date of availability of the NYFIRST application for a given application cycle and the application deadline for that cycle. A copy of the accepted employment offer must be submitted with the NYFIRST application.

Also, the grant term is four years, and all expenditures for which Program funding is approved must be commenced and completed no more than four years from commencement of the grant.

Eligible uses for the funds are then discussed. Program grants may now cover specialized supply purchases and working capital.

The full text of the regulations is available at: [www.esd.ny.gov](http://www.esd.ny.gov)

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire April 30, 2019.

**Text of rule and any required statements and analyses may be obtained from:** Thomas P. Regan, New York State Urban Development Corporation, 625 Broadway, Albany, NY 12245, (518) 292-5123, email: [thomas.regan@esd.ny.gov](mailto:thomas.regan@esd.ny.gov)

#### Regulatory Impact Statement

##### STATUTORY AUTHORITY:

Part TT of Chapter 58 of the Laws of 2017 requires the New York State Urban Development Corporation ("UDC") to establish criteria for the Life Sciences Initiatives Program via rulemaking.

##### LEGISLATIVE OBJECTIVES:

The rulemaking accords with the public policy objectives the Legislature sought to advance since it implements both the Capital Assistance component of the Life Sciences Initiative Program as well as the second component of the Program, the New York Fund for Innovation in Research and Scientific Talent ("NYFIRST") Program.

##### NEEDS AND BENEFITS:

The Capital Assistance component is designed to attract new life sciences technologies to New York State, promote critical public and private sector investment in emerging life sciences fields in New York State and create and expand life sciences related businesses and employment. It includes a diverse range of programs designed to attract, grow and retain life science companies in regions of the state with existing life science activity. These programs include establishment of the Empire Discovery Institute (EDI), a collaboration among three upstate research institutions to accelerate the pathway from discovery research to commercialization; supporting the launch of JLABS@NYC, an incubator for life-science start-ups; creation of public-private partnerships with private sector biopharmaceutical companies; and establishment of the New York Fund for Innovation in Research and Scientific Talent (NYFIRST), a medical school grant program.

NYFIRST is intended to encourage the recruitment and retention of exceptional life science researchers and world-class talent at the state's medical schools to accelerate translational research. NYFIRST funds will be used to support the establishment or upgrading of laboratories for these researchers, purchases of capital equipment and specialized supplies needed for their research, and working capital to cover costs of professional staff (including staff scientists, postdoctoral fellows, and technicians, but excluding the recruited researcher) critical to the proposed research.

The rule updates the administrative procedures for the NYFIRST program. It is critical to implement this program immediately because medical schools are eager to encourage translational research at their institutions, as such research often results in new intellectual property, start-up companies, and products with commercial promise. By waiting for the standard rulemaking process to unfold, the State risks losing important economic development opportunities to states with competing life sciences incentive programs.

##### COSTS:

A. Costs to private regulated parties: None. There are no regulated parties in the Life Sciences Initiative Program, only voluntary participants.

B. Costs to the agency, the state, and local governments: UDC does not anticipate substantial extra costs associated with running the program outlined in this rulemaking. The program appropriation makes funding available for the Corporation's administrative costs. There is no additional cost to local governments.

C. Costs to the State government: The money to fund this grant program

is part of the Governor's \$320 million Life Sciences Initiative passed in FY 2018 budget. The Corporation believes the costs of this program will be offset by the positive economic impact of the program.

**LOCAL GOVERNMENT MANDATES:**

None. Local governments are not eligible to participate in the Life Sciences Initiatives Program.

**PAPERWORK:**

The emergency rule will require applicants to fill out an application to participate in the Life Sciences Capital Assistance program and the NYFIRST program. These applications will require applicants to provide certain business financial information to the Corporation. In addition, the Capital Assistance component requires applicant to submit an annual report to the Corporation while the NYFIRST program requires periodic reporting as well. Under NYFIRST, quarterly invoices are required to be submitted prior to the Corporation disbursing grant payments on a semi-annual basis.

**DUPLICATION:**

The emergency rule conforms to provisions of section 16-aa of the New York State Urban Development Corporation Act and does not otherwise duplicate any state or federal statutes or regulations.

**ALTERNATIVES:**

No alternatives were considered with regard to implementing this rulemaking.

**FEDERAL STANDARDS:**

There are no federal standards with regard to the Life Sciences Initiatives Program. Therefore, the emergency rule does not exceed any Federal standard.

**COMPLIANCE SCHEDULE:**

The period of time the state needs to assure compliance is negligible.

***Regulatory Flexibility Analysis***

The Life Sciences Initiative is composed of the Capital Assistance Program and the New York Fund for Innovation in Research and Scientific Talent ("NYFIRST") Program which are both statewide grant programs. Although there are small businesses in New York State that are eligible to participate in the program, participation by the businesses is entirely at their discretion. The emergency rule will not have a substantial adverse economic impact on small businesses and local governments. On the contrary, because the rule creates a grant program designed to attract business and jobs to New York State, it will have a positive economic impact on the State. Accordingly, a regulatory flexibility analysis for small business and local governments is not required and one has not been prepared.

***Rural Area Flexibility Analysis***

The Life Sciences Initiative is composed of the Capital Assistance Program and the New York Fund for Innovation in Research and Scientific Talent ("NYFIRST") Program, both of which are statewide programs. Although there are businesses in rural areas of New York State that are eligible to participate in the programs, participation by the businesses is entirely at their discretion. The emergency rule imposes no additional reporting, record keeping or other compliance requirements on public or private entities in rural areas. Therefore, the emergency rule will not have a substantial adverse economic impact on rural areas or reporting, record keeping or other compliance requirements on public or private entities in such rural areas. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

***Job Impact Statement***

The proposed rule relates to both the Capital Assistance component and the New York Fund for Innovation in Research and Scientific Talent ("NYFIRST") component of the Life Sciences Initiative Program. This Program will enable New York State to provide financial assistance to life sciences companies that commit to create or retain jobs and/or to make significant capital investment in the State. This Program, given its design and purpose, will have a substantial positive impact on job retention and creation, and employment opportunities. Because this rule will authorize the Corporation to immediately begin offering financial incentives to life sciences businesses that commit to creating or retaining jobs, it will only have a positive impact on job and employment opportunities. Accordingly, a job impact statement is not required and one has not been prepared.