

CHAPTER 4647

DEPARTMENT OF HEALTH

HEALTH CARE EQUIPMENT LOAN PROGRAM

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4647.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4647.0100 to 4647.0400, the following terms have the meanings given to them.

Subp. 2. **Applicant.** "Applicant" means a hospital as defined in subpart 12.

Subp. 3. **Approvable application.** "Approvable application" means an application for health care equipment loan program funds that meets the criteria listed in Minnesota Statutes, section 446A.08, subdivision 3, as implemented by parts 4647.0100 to 4647.0400. An application may contain more than one project and, within an application, a project may be approvable or nonapprovable.

Subp. 4. **Approved application.** "Approved application" means an approvable application, or a project within an application, for which there are sufficient funds available in the review period.

Subp. 5. **Department.** "Department" means the Department of Trade and Economic Development.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Health.

Subp. 7. **Cost of project.** "Cost of project" means the costs associated with the acquisition and installation of all functionally related eligible equipment, and all associated costs, including application preparation costs paid to third parties; bond issuance costs; underwriting costs; placement fees; trustee fees; bond insurance; fee of guarantor, insurer, or financial institution, other than the department, which provides letters of credit; surety bonds or equivalent security; department fees, including application fees as defined in part 7380.0210, subpart 2; interest costs during construction; legal fees, including those of the department's bond counsel; and debt service reserve fund.

Subp. 8. **Eligible equipment.** "Eligible equipment" means depreciable assets used to provide essential health care services, including machinery, tangible personal property, fixtures, and all construction, renovation, or remodeling to buildings or other real property necessary for the installation, use, or operation of the machinery, property, or fixtures.

Subp. 9. **Essential health care service.** "Essential health care service" means a service delivered directly to hospital patients in the course of obstetrical and/or neonatal care, or diagnosis, treatment, or prevention of illness, medical condition or disease, or a service necessary for the efficient delivery thereof. Essential health care services does not include experimental health care services as defined for purposes of federal reimbursement of hospitals under title 18 of the Social Security Act.

Subp. 10. **Funds.** "Funds" means proceeds from the sale of bonds or notes issued pursuant to Minnesota Statutes, section 446A.08, subdivision 2, and funds that are available for loan during a review period.

Subp. 11. **HELP.** "HELP" means the Health Care Equipment Loan Program as established by Minnesota Statutes, section 446A.08, and parts 4647.0100 to 4647.0400.

Subp. 12. **Hospital.** "Hospital" means an institution as defined by Minnesota Statutes, section 144.50, subdivision 2, and one that is certified to participate in the federal Medicare program in accordance with the provisions of section 1861(e) of the Social Security Act, as amended.

Subp. 13. **Nonapprovable application.** "Nonapprovable application" means an application that lacks additional information requested under part 4647.0200, subpart 4, or an application that does not meet the criteria listed in part 4647.0200, subpart 3.

Subp. 14. **Project.** "Project" means all functionally related eligible equipment.

Subp. 15. **Review period.** "Review period" means the period beginning with the most recent application deadline provided in part 7380.0240, subpart 1, and ending with the transmittal of the notice of approved applications to the commissioner of trade and economic development, which period of time shall be ten weeks.

Subp. 16. **Suitable financing.** "Suitable financing" means financing at a comparable or lesser total cost, in the same or approximately the same dollar amount, with the same or comparable maturity and with comparable or more favorable conditions.

Statutory Authority: *MS s 446A.08*

History: *10 SR 1589; L 1987 c 312 art 1, c 386 art 3 s 25*

4647.0200 REVIEW OF APPLICATIONS.

Subpart 1. **Review of applications by commissioner of health.** All applications for HELP loans received from the commissioner of trade and economic development shall be reviewed by the commissioner of health to determine whether they meet the criteria provided in subpart 3.

Subp. 2. **Time frame for commissioner's review.** The commissioner has five weeks from the beginning of the review period in which to request additional information from applicants who have submitted applications. An applicant must submit additional information, if required, within seven weeks of the beginning of the review period for the application to be further considered by the commissioner during the review period. Within nine weeks of the beginning of the review period, the commissioner shall conclude review of applications under consideration in that review period, determine approvable applications, and determine if funds available for the review period are sufficient.

If the allocation is insufficient to fund all approvable applications, the commissioner shall rank approvable applications, and determine approved applications in the manner provided in part 4647.0300, subpart 2.

Within ten weeks of the beginning of the review period, the commissioner shall notify the commissioner of trade and economic development of approved applications.

Applications received by the commissioner after the application deadline for a review period which can reasonably be reviewed for approvability by the commissioner shall be placed in category C, as described in part 4647.0300, subpart 2, item C, if the applications are determined to be approvable applications. Applications that cannot reasonably be reviewed in the review period shall be retained and reviewed in the subsequent review period.

Subp. 3. **Commissioner's review criteria.** The applicant shall provide documentation with the application, demonstrating satisfaction of the following criteria:

A. That the facility is a hospital licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.58, and is owned and operated by a county, district, municipality, or a nonprofit corporation. The applicant shall include its hospital license number on its application and indicate the number of licensed hospital beds.

B. That the loan will not be used to refinance existing debt:

(1) The applicant shall certify that the HELP loan will not be so used.

(2) A loan to the hospital for cash outlays made by the hospital for eligible equipment purchased, ordered, or installed after February 3, 1986, shall be allowed, provided that the hospital applies to the department, or to the private insurer which issues the letter of credit or bond insurance for the department's bonds, within 90 days of the earlier of the date of purchase, order, or installation of the eligible equipment. The applicant must provide evidence of the date of purchase, order, or installation of the eligible equipment.

C. That the hospital was unable to obtain suitable financing from other sources. The applicant shall certify that it was unable to obtain suitable financing from other sources.

D. That the loan is necessary to establish or maintain patient access to an essential health care service that would not otherwise be available within a reasonable distance from the hospital. To address this criterion, the applicant shall include in brief narrative form the following information for each project in the loan application:

(1) a description of the equipment being replaced or new equipment being purchased and a description of associated construction or renovation;

(2) a statement of whether and how the project relates to current services, including data about the use of the services affected by the project;

(3) a description and geographic identification of the hospital's service area in terms of standard political subdivisions; and

(4) a description of the need for the project, including anticipated patient need and use and a description of how the project is related to the provision of an essential health care service. The applicant shall also include an explanation of how the project relates to the most recent state health plan and the most recent health systems agency plan for the hospital's health service area, developed pursuant to Public Law Number 92-641.

E. That the project to be financed by the loan is cost effective and efficient. To demonstrate satisfaction of this requirement, the applicant shall, in brief narrative form, address the following subjects for each project in the loan application;

(1) How the expected benefits to the patients to be served by the project and to the hospital justify the costs of the project. These benefits shall be discussed by the applicant in terms of the number of patients, the time of use, and the time and dollars saved. In estimating costs, the applicant shall include the costs of the project, operating costs, and any anticipated increases or decreases in patient charges.

(2) The availability and adequacy of other alternatives or substitutes for all or any part of the project, including an evaluation of their costs and benefits or effectiveness as compared to the project. The applicant shall include a description of the costs associated with continuing to provide patient services without the project.

(3) If there are other hospitals in the service area, a description of the anticipated effect the proposed project will have on existing facilities and services. The applicant shall also include an explanation of how the project relates to the most recent state health plan and the most recent health systems agency plan for the hospital's health service area, developed pursuant to Public Law Number 92-641.

Subp. 4. **Additional information.** To make a determination whether the application is an approvable application, the commissioner may request the submission of additional information relating to subpart 3. The commissioner shall delay approval of an application for failure of the applicant to timely submit requested information. Additional information requested by the commissioner must be received by 4:30 p.m. on Friday of the seventh week following the beginning of the review period in which the application is being reviewed. Applications for which additional information was requested and not received by this deadline shall be retained for consideration in the next review period or returned to the applicant, as the applicant directs. Applications returned to the applicant may be resubmitted.

Statutory Authority: *MS s 446A.08*

History: *10 SR 1589; L 1987 c 312 art 1*

4647.0300 DETERMINATION OF APPROVED APPLICATIONS.

Subpart 1. **Determination upon sufficient funding.** The commissioner shall determine whether the funds available for the review period are sufficient to fund all approvable applications for that review period. If the funds are sufficient, the commissioner shall approve all approvable applications.

Subp. 2. **Determination upon insufficient funding.** If the commissioner determines that the total amount of funds requested in approvable applications during that review period exceed the amount of funds available, approvable applications shall be categorized and approved as follows:

A. All approvable applications, except for approvable applications carried over from a previous review period, shall be placed in category A unless, if within the two years prior to the applicable review period application deadline, the applicant has received the proceeds of debt, the interest thereon which was exempt from federal taxation, which was used for the purchase of hospital or health care equipment, in which case the applications of such applicants shall be placed in category B.

B. In category A, approvable applications will be approved in reverse order of their ranking by hospital size, as determined by number of licensed beds, excluding infant bassinets, of the hospital submitting the application.

C. If the funds available for the review period are insufficient to fund all the approvable applications in category A, the commissioner may approve, with the consent of the applicant, projects within approvable applications so as to distribute all available funds. The commissioner will not approve parts of projects. The applicant shall determine those approvable projects within an approvable application to which available funds shall be applied. Projects within an approvable application not approved in the review period, and other approvable applications not approved in that period, shall be carried over to the next review period.

D. After all approvable applications in category A have been approved, remaining funds shall be applied to category B. Applications in category B will be approved in the same order of priority applied to approvable applications in category A. Category B applications not approved in the review period shall be carried over to the next review period.

E. After all approvable applications in category B have been approved, remaining funds shall be applied to category C. Applications in category C will be funded in the same order of priority applied to approvable applications in category A. Category C applications not approved in the review period shall be carried over to the next review period.

F. At the beginning of a review period, the commissioner shall consider all approvable applications carried over from previous review periods. Approvable applications containing projects not approved because of insufficient funds in the previous review period shall be placed in the same category in the subsequent review period and approved in the manner provided in item B or D. All other approvable applications shall be placed in either category A or category B according to the procedure provided in item A.

Statutory Authority: *MS s 446A.08*

History: *10 SR 1589*

4647.0400 NOTICE.

The commissioner shall notify applicants by mail if their applications are not approvable or not approved during the review period for which they applied for HELP funds.

Statutory Authority: *MS s 446A.08*

History: *10 SR 1589*