

**CHAPTER 7380**  
**DEPARTMENT OF TRADE AND ECONOMIC**  
**DEVELOPMENT**  
**MINNESOTA PUBLIC FACILITIES AUTHORITY**  
**LOAN PROGRAMS**

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**GENERAL ADMINISTRATION**

**7380.0100 DEFINITIONS.**

Subpart 1. **Scope.** The terms defined in this part apply to parts 7380.0100 to 7380.0130.

Subp. 2. **Meetings.** Regular meetings and special meetings of the authority, and notice of such meetings, shall be as provided in the Minnesota Open Meeting Law, Minnesota Statutes, section 471.705.

Subp. 3. **Statute.** "Statute" means Minnesota Statutes, section 471.705, cited as the Minnesota Open Meeting Law.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1822*

**7380.0110 REGULAR MEETINGS.**

Regular meetings of the authority are held as provided in the notice of meeting schedule issued by the authority and on file at the office of the authority at 900 American Center Building, 150 Kellogg Boulevard, Saint Paul, Minnesota. If the authority decides to hold a regular meeting at a time or place different from

the time or place stated in its schedule of regular meetings, it shall do so as provided by Minnesota Statutes, section 471.705, subdivision 1c.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1822*

## **7380.0120 SPECIAL MEETINGS.**

Special meetings of the authority may be called by the chair or by a majority of the members of the authority, provided the notice is given as required by statute. The purpose of the meeting shall be only as provided in the notice, and shall be held at the office of the authority in Saint Paul, Minnesota, unless another place of meeting is designated by resolution.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1822*

## **7380.0130 AGENDA.**

A proposed agenda of business to be conducted at any regular or special meeting of the authority must be included with the notice of meeting to all members of the authority. Any citizen, group, or organization that has requested to be included on the Public Facilities Authority mailing list shall receive an agenda. The mailing list will be updated every two years. Any member of the authority who wishes to add an item on the agenda of a regular meeting may do so with the concurrence of the majority of the members.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1822*

## **HEALTH CARE EQUIPMENT LOAN PROGRAM**

### **7380.0200 SCOPE AND AUTHORITY.**

Parts 7380.0200 to 7380.0240 apply to applications for loans for health care equipment made to the authority under Minnesota Statutes, section 446A.08, subdivision 3.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 386 art 3 s 28*

### **7380.0210 DEFINITIONS.**

**Subpart 1. Scope.** For the purposes of parts 7380.0200 to 7380.0240, the following terms have the meanings given to them.

**Subp. 2. Application fees.** "Application fees" means the fee charged by the authority, in connection with an application for program funds, based on the actual direct cost of processing the application and servicing loans by the commissioner and the commissioner of health. The application fee is two-fifths of one percent of the program funds requested in applications received during any calendar quarter established by part 7380.0240, subpart 1, and shall be paid in accordance with part 7380.0240, subpart 6. The fees shall not exceed the applicable federal limitations imposed by section 103(c) of the Internal Revenue Code of 1954, as amended, or other applicable federal laws governing the issuance of bonds or notes by the authority.

**Subp. 3. Authority.** "Authority" means the Minnesota Public Facilities Authority created in Minnesota Statutes, section 446A.01.

**Subp. 4. Commissioner.** "Commissioner" means the commissioner of Trade and Economic Development or a designee.

**Subp. 5. Program funds.** "Program funds" means the money for loans made available from the sale of bonds or notes as set forth in the indenture adopted by the Minnesota Public Facilities Authority pursuant to Minnesota Statutes, section 446A.08, subdivision 2.

Subp. 6. **Project.** "Project" means all functionally related equipment and all associated costs including application fees; bond issuance costs; underwriting or placement fees; trustee fees; bond insurance; fees of guarantor, insurer, or financial institution other than the authority who provides letter of credit, surety bonds, or equivalent security; legal fees, including those of the authority's bond counsel; and debt service reserve fund.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 312 art 2 s 26 subd 2; 386 art 3 s 28*

### **7380.0220 ELIGIBLE PROJECT FOR PROGRAM FUNDS.**

To be eligible for program funds, an application must meet the criteria outlined in Minnesota Statutes, section 446A.08, subdivision 3, and part 4647.0200, subpart 3.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 386 art 3 s 28*

### **7380.0230 PROCEDURES FOR HEALTH CARE EQUIPMENT LOAN APPLICATIONS.**

Subpart 1. **In general.** To apply for assistance from the authority, an applicant shall submit two completed application forms to the commissioner on a form provided by the commissioner. An application must be completed, dated, and signed by an authorized officer of an applicant and include certification of bond insurance issued by a private insurer as required by Minnesota Statutes, section 446A.08, subdivision 2.

Subp. 2. **Contents.** Applications must include the amount of the requested loan and information necessary for approval by the commissioner of health pursuant to Minnesota Statutes, section 446A.08, subdivision 3, and parts 4647.0100 to 4647.0400.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 386 art 3 s 28*

### **7380.0240 PROCEDURES FOR APPLICATION PROCESSING.**

Subpart 1. **Deadline for submission.** Applications for program funds will be processed on a quarterly basis. Applicants shall submit completed application forms by February 1, May 1, August 1, or November 1 to receive consideration or priority under part 4647.0300 in the respective quarter. If an application is received after the quarterly application deadline, it shall be forwarded to the commissioner of health.

Subp. 2. **Review by Department of Health.** When an application is received by the commissioner, a copy of the application will be sent to the commissioner of health for review. Upon receipt of the notification from the commissioner of health that the application or a project within an application has been approved, the commissioner will follow the procedure under subpart 3 or 4.

Subp. 3. **Review and approval.** The authority may not approve an application, or a project within an application, nor make a loan to an applicant unless the application or project within an application has been approved by the commissioner of health. If the commissioner of health has approved an application or project within an application, the authority shall pass a resolution approving the application or project and make the loan if sufficient program funds are available and if the loan to the applicant has been approved by the private insurer which has issued a letter of credit or bond insurance policy with respect to the indenture adopted by the authority pursuant to Minnesota Statutes, section 446A.08, subdivision 2.

Subp. 4. **Authority review and rejection.** If the commissioner of health has approved an application or project within an application, the authority shall pass

a resolution rejecting the application or project, and notify the applicant of the rejection, only if the authority finds that there are insufficient program funds available or that the applicant had been denied by the private insurer which has issued a letter of credit or bond insurance policy with respect to the indenture adopted by the authority pursuant to Minnesota Statutes, section 446A.08, subdivision 2.

**Subp. 5. Loan agreement and disbursement.** Upon approval of an application or project within an application by the authority, the commissioner shall send a loan agreement to the applicant. The applicant shall have a duly authorized officer execute and return the executed loan agreement to the commissioner. The program funds approved by the authority for an applicant will be disbursed upon execution of and according to the terms of the loan agreement and the health care equipment program indenture.

**Subp. 6. Payment of application fee.** The application fee established pursuant to part 7380.0210, subpart 2, shall be paid by the trustee specified in the health care equipment loan indenture on a quarterly basis no later than at the time of disbursement.

**Subp. 7. Preparation of documents.** The commissioner has the authority and responsibility to prepare or cause to be prepared all necessary documents and to execute them on behalf of the authority.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 386 art 3 s 28*

## **WATER POLLUTION CONTROL REVOLVING FUND**

### **7380.0400 PURPOSE.**

The Water Pollution Control Revolving Fund administered by the Minnesota Public Facilities Authority provides loans and other forms of financial assistance for the planning, designing, and construction of municipal wastewater treatment plants to assure maintenance of progress toward municipal compliance, or implementation of nonpoint source management controls, as required by the Federal Water Pollution Control Act, to municipalities for projects that have been certified by the Minnesota Pollution Control Agency. The United States Environmental Protection Agency provides a capitalization grant to the state of Minnesota to provide loans through the authority to ensure that the Revolving Fund is available to finance water pollution control projects in perpetuity. The terms and conditions of the loan agreement for financial assistance provided by the authority must be in conformance with the Federal Water Pollution Control Act, United States Code, title 33, particularly sections 1381 to 1387, the rules of the agency, and this part.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

### **7380.0410 DEFINITIONS.**

**Subpart 1. Scope.** The terms defined in this part, in Minnesota Statutes, section 446A.02, and in the Federal Water Pollution Control Act, apply to parts 7380.0400 to 7380.0480.

**Subp. 2. Act.** "Act" means the Federal Water Pollution Control Act, United States Code, title 33, sections 1251 to 1387.

**Subp. 3. Agency.** "Agency" means the Minnesota Pollution Control Agency.

**Subp. 4. Applicant.** "Applicant" means:

A. a governmental unit as defined in Minnesota Statutes, section 446A.02, subdivision 5; or

B. a municipality as defined in this part.

**Subp. 5. Average coupon rate.** "Average coupon rate" means the weighted average of bonds at the various maturity dates as provided in the bond.

**Subp. 6. Dedicated sources of revenue for repayment.** "Dedicated sources of revenue for repayment" means one or more dedicated sources of revenue established by the municipality to ensure repayment of the loan from the authority. Dedicated sources of revenue may be: special assessments; general taxes or general obligation bonds; sewer service charges; or other sources acceptable to the authority.

**Subp. 7. Allowable costs.** Allowable costs that may be financed by the authority, provided the allowable cost item is reasonable, necessary, and permitted by the act, include those provided in the list of costs given below. The listing is only representative of allowable costs that may be financed by a loan from the authority. Other allowable costs may also fall within the language of the act, United States Code, title 33, sections 1381 to 1387.

A. acquisition costs of buildings or land under United States Code, title 33, sections 1381 to 1387;

B. site preparation;

C. construction costs;

D. engineering costs;

E. costs of equipment, machinery, or both;

F. bond issuance costs;

G. underwriting, financial advisors, or placement fees;

H. trustee fees;

I. fees of guarantor, insurer, or financial institution, other than the authority, which provide letters of credit, surety bonds, or equivalent security;

J. authority fees, including application and guaranty fees of the authority;

K. certain contingency costs;

L. interest costs during construction;

M. legal fees, including those of the authority; and

N. a debt service reserve fund.

**Subp. 8. Executive director.** "Executive director" means the executive director of the Public Facilities Authority.

**Subp. 9. Fund.** "Fund" means the Minnesota Water Pollution Control Revolving Fund created by Minnesota Statutes, section 446A.07, as amended.

**Subp. 10. Intended use plan.** "Intended use plan" means the document prepared annually by the agency according to requirements of the act and submitted to the United States Environmental Protection Agency. The plan will identify the intended uses of the amounts available to the fund, including a list of wastewater treatment projects and other eligible activities scheduled to be funded during the fiscal year.

**Subp. 11. Loan agreement.** "Loan agreement" means the loan agreement or financing agreement between the authority and the municipality that provides all the terms and conditions of the loan.

**Subp. 12. Municipal bond index.** "Municipal bond index" means the index based on the yield that about 500 major issuers, mainly of investment grade, would pay on new long-term (20 years) general obligation, tax exempt bonds. The index is published each Friday in the Wall Street Journal.

**Subp. 13. Municipality.** "Municipality" means any county, city, and town, the Metropolitan Waste Control Commission established in Minnesota Statutes, chapter 473 and the Metropolitan Council when acting under the provisions of that chapter or an Indian tribe or an authorized Indian tribal organization, and any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state.

**Subp. 14. Poverty level.** "Poverty level" means the level of income identified

as the poverty level by the United States Census Bureau; or by another federal or state agency; or by an accredited independent survey, which most accurately measures the level of poverty within a project service area.

**Subp. 15. Project completion.** "Project completion" means the date on which the operation of the treatment works is initiated or is capable of being initiated.

**Subp. 16. Project service area.** "Project service area" means that part of the sewer service area directly served by the project being constructed.

**Subp. 17. Quarterly set rate.** "Quarterly set rate" means the maximum rate of interest set for a calendar quarter and shall be determined by the authority using as guidance the average of the municipal bond index for the four weeks prior to the beginning of the quarter minus 100 basis points for 20-year term loans. For loans of less than 20 years, the quarterly set rate will be determined by the authority using as guidance an index of investment grade bond issues having a maturity equal to the term of the loan being requested by the municipality minus a discount of five basis points for each year less than 20 years.

**Subp. 18. Sewer service area.** "Sewer service area" means the sewer service area that utilizes the individual sewage treatment plant.

**Subp. 19. Sewer service charge.** "Sewer service charge" means a charge levied upon the users of the sewer service system to pay for the use of the system. Service charges include tax assessment, special assessments, user charges, or other charges identified by any other name.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

#### FINANCIAL ASSISTANCE APPLICATIONS

#### 7380.0420 PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATIONS PROCESSING.

**Subpart 1. In general.** To apply for financial assistance from the authority, eligible applicants identified in the annual intended use plan prepared by the agency may submit an application at any time to the executive director of the authority.

Prior to the submission of an application to the authority, the municipality shall contact the authority to receive the authority's advice under Minnesota Statutes, section 446A.051.

The authority shall forward the application to the agency within ten day after receipt of the application by the authority. The agency will accept and review the application as provided in its rules.

**Subp. 2. Authority review.** When an application that has been certified by the commissioner of the agency is returned to and received by the authority on or before the first business day of the month, the authority shall consider the application at the authority meeting that month. If the certified application is received after the first business day of the month and can be reviewed by the executive director prior to the authority agenda deadline, the authority may consider the application at the meeting in that month.

**Subp. 3. Completed application.** An application certified by the commissioner of the agency is considered complete when the executive director of the authority determines that the exhibits and documentation which have been received provide a full and accurate account of the project financing to the extent that the authority is able to make an informed determination on the application.

**Subp. 4. Incomplete application.** If an incomplete application is received, the executive director shall notify the applicant in writing of specific deficiencies in the application. The applicant has 60 days from the date of mailing of the executive director's notification to complete the application. If the application is not completed and received by the executive director within those 60 days, the appli-

cation is deemed to be rejected and the applicant, subject to agency rules, must reapply to be further considered.

**Subp. 5. Applications not receiving certification.** An application not receiving certification by the commissioner of the agency will not receive consideration for financial assistance by the authority. The executive director of the authority shall notify the applicant of the rejection of the application by the authority within ten days of the rejection determination.

**Subp. 6. Rejection of loan applications by the authority.** The authority may reject an application for financial assistance for the following reasons:

- A. failure to obtain certification from the of the agency for the project;
- B. failure to develop and document dedicated sources of revenue sufficient in the judgment of the authority to ensure repayment of the loan to the authority; and
- C. failure to submit a completed application using the procedure provided in part 7380.0420, subpart 4.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

### **7380.0430 AUTHORITY EVALUATION PROCEDURE.**

**Subpart 1. In general.** The authority shall evaluate applications certified by the commissioner of the agency to determine the applicant's capacity to comply with the terms and conditions of the Act and the rules of the authority as provided in this part.

The applicant's project must have been identified in the agency's intended use plan for the year in which the applicant is applying.

The authority will only provide financial aid for the allowable costs provided in part 7380.0410, subpart 7.

#### **Subp. 2. Loan terms and conditions.**

A. The terms and conditions for loans and other forms of financial assistance provided by the authority to eligible applicants for certified projects are as provided by the Act; Minnesota Statutes, chapter 446A; this part; and as provided by the authority in the loan agreement for the project financing.

B. If the authority provides a loan to a municipality for planning or design engineering of a wastewater treatment facility, the interest rate, terms, and conditions must be the same as for loans elsewhere in this part.

**Subp. 3. Repayment.** The repayment of loans to the authority by the recipient must be sufficient to fully amortize the loan for a period of not more than 20 years after project completion. If treatment works have been segmented or phased, the repayment requirements of this subpart and the payment requirements of subpart 6 apply to each phase or segment of the project.

**Subp. 4. Dedicated sources of revenue.** Loan recipients shall establish, and identify in the application, dedicated sources of revenue sufficient to operate and maintain the new facility, and fully amortize the loan for a term of not more than 20 years. The authority shall examine the identified dedicated sources of revenue to ensure that they are a sufficient amount and of sufficient certainty to fully repay the loan.

**Subp. 5. Payments.** The first principal and interest payment is due and payable not later than one year after project completion, or 24 months from the beginning of construction, whichever is earlier. Subsequent principal and interest payments by the loan recipient must be made at the times agreed upon by the loan recipient and the authority in the loan agreement. In general, semiannual loan payments will be required, unless a different payment schedule is agreed upon and provided in the loan agreement. However, in no case shall payments be less frequent than annual principal and interest payments sufficient to amortize the debt within the contracted period.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

**7380.0440 INTEREST RATE DETERMINATIONS.**

**Subpart 1. In general.** The interest rate charged by the authority to a loan recipient must be determined as provided in this part.

**Subp. 2. Setting of interest rates.**

A. The interest rate charged to a loan recipient must be determined by the authority using as guidance the quarterly set rate in effect at either the time of the municipality's application to the authority, or at the time of the signing of the loan agreement by the authority and the municipality, as determined by the municipality at the signing of the loan agreement.

B. The applicant is entitled to the cumulative interest rate adjustments provided in this part, regardless of when the applicant chooses to set the interest rate as provided in item A.

C. If the authority funds an applicant's project through the sale of authority bonds, the applicant may request in its loan application the specific basis point reduction from the average coupon rate of the bonds sold by the authority as provided in item D. If an applicant chooses this option, the applicant will not be entitled to receive any other interest rate adjustment as provided in item B or subparts 4 to 6. The applicant also must comply with the following conditions:

(1) the payment schedule agreed to follows the payment schedule of the bonds sold by the authority;

(2) acceptable agreement on fund accountability is reached;

(3) the municipality can demonstrate its creditworthiness; and

(4) the integrity of the fund is maintained.

D. The authority shall annually provide in its application material the specific basis point reduction it will allow under item C.

**Subp. 3. Suspension of loans at the quarterly set rate.** The authority may suspend offering loans at the quarterly set rate if it determines that market conditions impacting the municipal bond index are unsettled or impair the viability of the fund. At the time of that determination, the authority may by resolution adopt a revised quarterly set rate, based upon generally accepted practices of interest rate forecasting, for a period of time determined by the authority. The authority may, based upon market conditions, extend the offering of loans at the revised quarterly set rate and continue to do so until the time the authority considers it prudent to again use the municipal bond index as guidance for the quarterly set rate.

**Subp. 4. Demographic considerations.**

A. A loan application will be considered for an interest rate reduction based upon the population of the project service area, and be eligible for a reduction as follows:

(1) Applicants with a project service area population of less than 150,000 and larger than 100,000 are eligible to receive the quarterly set rate minus 25 basis points, subject to the interest rate adjustments given in this part.

(2) Applicants with a project service area population of 100,000 or less and larger than 25,000 are eligible to receive the quarterly set rate minus 50 basis points, subject to the interest rate adjustments given in this part.

(3) Applicants with a project service area population of 25,000 or less and larger than 5,000 are eligible to receive the quarterly set rate minus 75 basis points, subject to the interest rate adjustments in this part.

(4) Applicants with a project service area population of 5,000 or less and larger than 2,500 are eligible to receive the quarterly set rate minus 100 basis points, subject to the interest rate adjustments in this part.



(5) Applicants with a project service area population of 2,500 or less but larger than 1,000 are eligible to receive the quarterly set rate minus 125 basis points, subject to the interest rate adjustments in this part.

(6) Applicants with a project service population of 1,000 or less are eligible to receive the quarterly set rate minus 150 basis points, subject to the interest rate adjustments in this part.

B. The data used to determine the population and the median household income of the project service area should be that which most accurately measures the population and median household income of the area. The authority shall determine if the data submitted by the municipality is an appropriate and accurate measurement of the population and household income of the project service area.

C. The metropolitan and nonmetropolitan median household income levels of the state must be determined from income data from the most recent census of the United States or from data from the state demographer. The data provided must be applied as the criteria to determine if the applicants' project service area household income is at, below, or above the median household level for the metropolitan or nonmetropolitan area as applicable.

D. If there is reason to believe that the United States census data or the data from the state demographer is not a currently accurate representation of the median household income or population within the project service area, the applicant may document the reasons why the data is not an accurate representation, and obtain additional information regarding median household income or population for the project service area. The information must consist of reliable data from local, regional, state or federal sources, or from a survey conducted by a reliable impartial source.

**Subp. 5. Interest rate adjustment.** Any applicant is eligible to receive consideration for interest rate adjustments to the interest rate to be charged by the authority as provided in this part.

A. The median household income is the income level for the project service area of the facility being financed by the authority. If the median household income level for the area is below the median household income level for a metropolitan or nonmetropolitan area, as applicable, the applicant is eligible for a 50 basis point reduction in the rate; or

B. If the percentage of poverty level households in the project service area is at or above the national average, the applicant is eligible for a 100 basis points reduction in the interest rate charged by the authority.

C. If the estimated annual sewer service charge of the project service area after the completion of the project exceeds one percent of the median household income level of the project service area, the municipality is eligible for a 100 basis point reduction in the interest rate.

**Subp. 6. Interest-free loans.** The authority may offer interest-free loans as provided in this part to municipalities demonstrating in their application that they are financially unable to pay any interest charge on the loan. The authority shall not offer interest-free loans if the offering of an interest-free loan results in the combined rate of interest on the authority's portfolio to yield less than the rate of inflation as determined by the consumer price index.

Interest-free loans for any applicant are limited to \$500,000, or the eligible cost of the project, whichever is less. The authority shall not provide interest-free loans, in total, exceeding up to ten percent of the total capitalization grant funds scheduled to be received by the authority.

To be eligible for consideration for an interest-free loan, an applicant must meet each of the following conditions:

A. the population of the project service area has declined over the past ten years;

B. the percent of poverty level households in the project service area of the project is at or above the national average; and

C. the estimated annual sewer service charge of the project service area after the completion of the project exceeds one and one-half percent of the median household income level of the project service area.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

#### **7380.0450 OTHER FINANCIAL ASSISTANCE.**

In addition to the loans provided in parts 7380.0430 to 7380.0440, the authority may use any forms of financial aids provided in United States Code, title 33, section 1383(d). The use of specific financing tools will be determined by the authority based on existing financial market conditions at the time the financing of the project takes place.

The revolving loan fund authorized by the act may be used:

A. to buy or refinance the debt obligation of municipalities for treatment works for which the debt was incurred and construction begun after March 7, 1985, at or below market rate;

B. to guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates;

C. to provide a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority if bond proceeds are deposited in the fund; and

D. to provide loan guarantees for similar revolving funds established by a governmental unit other than state agencies.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

#### **7380.0460 FEES.**

If the authority charges a loan recipient a loan origination fee, the fee must be based on a schedule established by the authority and must not exceed one and one-half percent of funds borrowed from the authority. The fees, if any, will be charged to all loan recipients and must be as provided in the loan application form. These fees may be included as an eligible project activity or category in the municipality's application to the authority, and are due and payable as provided in the loan agreement.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

#### **7380.0470 RELEASE OF FUNDS.**

**Subpart 1. In general.** Subject to the availability of funds, payments to the governmental unit for an approved project will be made in accordance with applicable state and federal law governing payments, but payments will not be made until the authority has determined the total estimated cost of the project, and ascertained that the total final financing of the project is assured by the following:

A. a loan authorized by state law or the appropriation proceeds of bonds or other money of the municipality to a fund for construction of a project; and

B. an irrevocable undertaking, by resolution of the applicant, to use the loan proceeds exclusively for the project, and to pay any additional amount by which the cost of the project exceeds the final estimate by the appropriation to the construction fund of additional money or proceeds of additional bonds to be issued by the governmental unit.

**Subp. 2. Adverse change.** The authority shall not release funds to a municipality for an approved project until the authority has determined that there have

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been no adverse changes in the financial capacity of the municipality since the day of the completion of the application.

The authority reserves the right to suspend or terminate funding to the municipality if the authority determines that there has been an adverse change.

**Subp. 3. Conformance with plans and reporting requirements.** The authority shall withhold, suspend, or terminate either total or partial payments if the authority determines that a project does not substantially conform to approved plans and specifications, or there has been substantial noncompliance with reporting requirements.

The executive director shall give a municipality written notice of the deficiencies the authority has determined exist, and the time in which the municipality must demonstrate to the authority's satisfaction that the condition has or will be corrected. The time for demonstration must not exceed 90 days.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

**7380.0480 REPORTS AND AUDITS.**

**Subpart 1. Reports.** During the term of the loan, the municipality shall make written reports to the executive director on forms provided by the authority and on a schedule determined by the executive director.

**Subp. 2. Audits.** Financial assistance recipients must arrange and pay for independent audits, acceptable to the authority and prepared in compliance with the Office of Management and Budget, Circular A-128, published in the Federal Register, volume 50, number 188, page 39083, on September 27, 1985, and in compliance with the Single Audit Act of 1984, United States Code, title 31, sections 7501 to 7507.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

**INDEPENDENT WASTEWATER TREATMENT GRANTS PROGRAM****7380.0500 SCOPE OF RULES.**

Parts 7380.0500 to 7380.0582 provide for the awarding of grants by the Minnesota Public Facilities Authority under Minnesota Statutes, chapter 446A, to municipalities for wastewater treatment projects certified by the commissioner of the Minnesota Pollution Control Agency, as provided in Minnesota Statutes, sections 116.16 to 116.181, and chapter 7075.

The executive director of the authority shall assist municipalities in determining which grants or loans to apply for to finance eligible projects and the manner in which the municipality shall pay for its portion of the project cost.

Municipalities making application to the authority must comply with the requirements of the Pollution Control Agency independent grant program rules in chapter 7075 in order to receive the required certification of the commissioner of the agency before any determination by the authority on the municipality's application.

The authority shall, as provided in Minnesota Statutes, section 446A.051, review the proposed project financing for a municipal project certified by the commissioner of the agency to determine if the municipality has demonstrated in its application that:

- A. the total financing of the project is assured; and
- B. the municipality's financial plan to pay for its portion of the project is feasible.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

**7380.0510 DEFINITIONS.**

The definitions in Minnesota Statutes, section 116.16, subdivision 2, and part 7380.0410, apply to parts 7380.0500 to 7380.0582.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922.*

**7380.0520 STATE INDEPENDENT GRANTS PROGRAM.**

**Subpart 1. Grants for certified projects.** The authority shall award state independent grants to municipalities for projects certified by the commissioner of the agency as provided in Minnesota Statutes, section 116.18, subdivisions 3a to 3d. The amount to be awarded by the authority must be equal to 50 percent of the eligible project cost as provided in the agency rules, or if the population of the municipality is 25,000 or less, 80 percent of the eligible project cost, as provided in the agency rules.

**Subp. 2. Grant limitation.** Until December 31, 1990, the authority shall award not more than 20 percent of the total amount of grants awarded under this part to any municipality in any fiscal year.

**Subp. 3. Economic development set-aside.** The authority shall set aside up to ten percent of the money to be awarded as grants under this part in any fiscal year for municipalities having substantial economic development projects that cannot come to fruition without municipal wastewater treatment improvements.

After the authority has allocated the first 90 percent of the total available money for the fiscal year to municipalities in accordance with agency priorities, the set-aside must be used by the authority to award grants to the remaining municipalities that have been identified by the authority.

**Subp. 4. Reimbursement.** The authority may award grants under this part to reimburse municipalities willing to proceed with projects and be reimbursed in a later year if an appropriation of sufficient funds has been made under Minnesota Statutes, section 116.18, subdivision 1, for that year.

**Subp. 5. Reimbursement grant percentages.** A municipality awarded a state independent grant for reimbursement for a project shall receive an additional five percent of the total eligible project construction cost beyond the percentage to which the municipality is entitled under subpart 1.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

**7380.0530 ELIGIBLE COSTS.**

Eligible costs for grant applications are the eligible costs provided in the agency independent grant program rules and certified by the commissioner of the agency.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

**7380.0540 CAPITAL COST COMPONENT GRANT PROGRAM.**

**Subpart 1. Grants for certified projects.** The authority shall award capital cost component grants to municipalities for projects certified by the commissioner of the agency.

**Subp. 2. Amount set aside.** The authority may set aside up to \$1,500,000 of the funds to be awarded as grants under part 7380.0520, subpart 1, in any fiscal year for capital cost component grants.

**Subp. 3. Project amount.** The amount of the award granted by the authority shall be as provided in the agency rules.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

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**7380.0550 INDIVIDUAL ON-SITE TREATMENT SYSTEMS PROGRAM.**

Subpart 1. **Grants for certified projects.** The authority shall award individual on-site treatment systems grants to municipalities for projects certified by the commissioner of the agency.

Subp. 2. **Amount set aside.** The authority may set aside up to ten percent of the funds to be awarded as grants as provided in part 7380.0520, subpart 1, in any fiscal year, up to a maximum of \$1,000,000, for the award of grants to municipalities to reimburse owners of individual on-site wastewater treatment systems for 50 percent of the costs of upgrading or replacing the systems, as provided in part 7075.1250, subpart 2.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

**7380.0560 CORRECTIVE ACTION GRANTS.**

The authority shall award corrective action grants to municipalities for projects certified by the commissioner of the agency.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

**7380.0570 APPLICATION PROCESS.**

Subpart 1. **In general.** To apply for state independent grants or the other grants programs as provided under parts 7380.0520, 7380.0530, 7380.0540, 7380.0550, and 7380.0560, applications by municipalities shall be made to the authority on forms provided by the agency which require information prescribed by the agency rules.

Subp. 2. **Notice of taking applications.** Applications must be taken as provided by the agency independent grant program rules. The application period for any of the grants programs shall be established by the commissioner of the agency.

Subp. 3. **Application processing.** The authority shall forward an application to the agency within ten days of receipt of an application by the authority. The agency will accept and review applications as provided in the program rules in chapter 7075.

Subp. 4. **Certified applications.** When an application certified by the commissioner of the agency is returned to the authority on or before the first business day of the month, the authority shall consider the application at the authority meeting that month. If a certified application is received after the first business day of the month and can be reviewed by the executive director before the authority agenda deadline, the authority may consider the application at the meeting in that month.

Subp. 5. **Complete applications.** An application is complete for the authority's purposes when the executive director receives all documentation and exhibits required for the authority to make the determinations required by Minnesota Statutes, section 446A.051.

Subp. 6. **Incomplete applications.** If the executive director determines, relative to the authority's requirements, that an application is incomplete, the executive director shall notify the applicant of the specific deficiencies in the application. The applicant has 30 days from the date of mailing of the executive director's notification to complete the application. If the application is not completed and received by the executive director within 30 days from the date of mailing, the application is considered rejected and the applicant, subject to agency rules, shall reapply to be further considered.

Subp. 7. **Applications not receiving certification.** An application not certified by the commissioner of the agency will not be considered for financial assistance

by the authority. The executive director of the authority shall notify the applicant of the rejection of the application by the authority within ten days of the rejection of the application by the authority.

**Subp. 8. Rejection of applications by the authority.** An application for financial assistance may be rejected by the authority for the following reasons:

A. failure to develop and document that other project-required funding commitments have been secured, as provided in Minnesota Statutes, section 446A.051;

B. failure to submit a completed application using the procedure provided in subpart 6; and

C. failure to demonstrate that the municipality's financial plan to pay for its portion of the project is feasible, as provided in Minnesota Statutes, section 446A.051.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

### **7380.0580 AWARD OF GRANTS AND LOANS.**

**Subpart 1. In general.** Upon certification of an application by the agency and the review and approval of the application by the authority, the authority shall make the award and notify the municipality that it is to receive a grant or loan and prepare and advise the municipality of the grant or loan forms or other documents that must be executed to complete the grant or loan.

**Subp. 2. Amendments to grant award.** A municipality that seeks an amendment to a previously awarded grant or loan shall follow the procedure in part 7380.0570 for applying to the authority.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

### **7380.0581 RELEASE OF FUNDS.**

Subject to the availability of funds, payments to a municipality, which have been certified by the commissioner of the agency, will be made in accordance with applicable federal and state laws governing those payments. However, payments will not be made until the authority has determined the total estimated cost of the project and ascertained that financing of the project is assured by:

A. a grant to the municipality by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state;

B. a grant of funds appropriated by state law;

C. a loan authorized by state law;

D. the appropriation of proceeds of bonds or other funds of the municipality to a fund for the construction of the project; or

E. any or all of the means referred to in items A to D; and

F. an irrevocable undertaking, by resolution of the governing body of the municipality, to use all funds made available exclusively for the construction of the project, and to pay any additional amount by which the cost of the project exceeds the estimate, by the appropriation to the construction fund of additional municipal funds or the proceeds of additional bonds to be issued by the municipality; and

G. conformity of the project and of the grant or loan application with the state water pollution control plan as certified to the federal government and with all other conditions under applicable state and federal law for a grant of state or federal funds of the nature and in the amount involved.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

**7380.0582 REPORTS.**

During the term of the grant or loan agreement, the municipality shall make written reports to the executive director of the authority on forms provided by the authority on a schedule determined by the executive director.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

**DISTRICT HEATING LOANS****7380.0600 DEFINITIONS.**

**Subpart 1. Scope.** The terms defined in this part and in Minnesota Statutes, section 216C.36, subdivision 2, apply to parts 7380.0600 to 7380.0650.

**Subp. 2. Construction loan.** "Construction loan" means a loan to fund construction costs.

**Subp. 3. Design loan.** "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structuring financing, and related district heating project tasks.

**Subp. 4. District heating project or project.** "District heating project" or "project" means a district heating design or construction project for a new or existing district heating system.

**Subp. 5. Existing system.** "Existing system" means a district heating system that has at least one customer and has been operational for more than one year.

**Subp. 6. Financial consultant.** "Financial consultant" means a reputable person or firm experienced in working with complex revenue-supported financial plans and qualified to assess the financial condition and operation of the district heating project.

**Subp. 7. Gross revenues.** "Gross revenues" means all revenues, fees, user charges, rents, franchise fees, special assessments, and other income and receipts derived from the ownership or operation of the district heating project, the proceeds of any insurance that insures against the loss of gross revenues, any investment income from money or securities derived from the state loan under Minnesota Statutes, section 216C.36, and any other income and receipts attributable to the ownership or operation of the project from whatever source derived, calculated on an annual basis.

**Subp. 8. New system.** "New system" means a district heating system that has at least one customer and has been operational for less than one year.

**Subp. 9. Operating expenses.** "Operating expenses" means the expenses directly and properly attributable to the operation of the project on an annual basis, including: expenses for operation, maintenance, repairs, ordinary replacement, ordinary acquisition of equipment, fuel and heat, labor and fringe benefits, lease rental payments, insurance premiums, administration, legal services, engineering services, payments of all indebtedness, and any other current expenses or obligations required to be paid by the municipality or owner of the district heating project, all to the extent properly and directly attributable to the operation of the district heating project. Operating expenses do not include any costs or expenses for new construction or any allowance for depreciation.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

**7380.0610 CONTENTS OF APPLICATION FOR NEW SYSTEM.**

A completed application for a construction loan to a new system must contain:

A. The name, address, and telephone number of the responsible official of the municipality.

B. Complete engineering design of the district heating project, including:

(1) an analysis of the proposed piping layout that must address optimum service to the total designated area, reliability of service, system temperatures and pressure requirements, thermal and hydraulic operability for normal and emergency conditions, and optimum piping configuration to provide service and flexibility for future expansion;

(2) an analysis of the proposed piping design that must address reliability of service, ease of construction, ease of maintenance, installation methods, and specifications and standards; and

(3) an analysis of the heat source design that must define the proposed roles of the following heat sources in the development and future operation of the system: base load heating plant, peaking plants, large boiler plants in existing buildings, mobile boilers, accumulators, and future heat sources such as solid waste, solar, and industrial waste heat.

C. A market study of customers who represent 90 percent of the proposed thermal load of the district heating system. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

D. A preliminary expansion plan showing how the system could be expanded to serve other parts of the community.

E. A complete economic analysis, including:

(1) a preliminary financing and development plan for the district heating system prepared by a financial consultant;

(2) cash flow, income, and balance sheets for the time period of the loan;

(3) a cost estimate and expenditure schedule for all transmission and distribution piping, heat source conversion, purchase or rental, operating and maintenance costs excluding fuel costs, and building heating conversion costs; and

(4) a statement showing the source of all funds to be used by the applicant for the design or construction of the system, and the amount of funds from each of those sources.

F. A certification by the municipality that a bid package for the construction of the project has been completed and is available to the department of public service if requested.

G. A copy of the standard contract entered into with customers of the project and a list of customers already under contract, listing the thermal load of each customer presently under contract and comparing the total of the thermal load already contracted with the total load of the district heating project.

H. Where applicable, a copy of any contract for the furnishing of heat and fuel for the district heating project.

I. A resolution in support of the project from the governing body of the municipality that must include the pledges the municipality proposed to make to guarantee prepayment of the loan and evidence of the municipality's capability to sponsor the district heating project.

J. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the project would be expected to comply and the present status of compliance with each.

K. A list of key personnel and their qualifications as they relate to the district heating project.

L. An estimate of the type and amount of fuel to be saved per year from



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the full operation of the district heating system compared to the type and amount of fuel used by the existing system.

M. A copy of a completed environmental impact statement or a negative declaration of the need for an environmental impact statement from a completed environmental assessment worksheet, or in those cases where no environmental assessment worksheet is required, a statement as to the environmental effects of the project.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

## 7380.0620 CONTENTS OF APPLICATION FOR EXISTING SYSTEM.

A completed application for a construction loan to an existing system must contain:

A. The name, address, and telephone number of the responsible official of the municipality.

B. Background information on the existing system, including: ownership, type and size of heat source, heat source capacity, backup heat boilers, and customer base, including information on process loads.

C. A complete engineering design of the expansion project, including:  
 (1) an analysis of the proposed piping layout, system temperatures and pressure requirements, and flexibility for future expansion; and  
 (2) an analysis of the heat source, including the capacity available and information concerning the backup heat source.

D. A discussion of proposed customer load including information on present fuel consumption or heating demand and the present heating system in each building for new customers.

E. A complete discussion of how the loan is to be secured, the current outstanding debt of the applicant, and the cash flow for the term of the loan. This discussion must also contain a cost estimate and expenditure schedule for all transmission and distribution piping, heat source conversion, purchase or rental, operating and maintenance costs excluding fuel costs, and building heating conversion costs.

F. A certification by the municipality that a bid package for the construction of the project has been completed and is available to the department of public service if requested.

G. A copy of the standard contract entered into with the customers of the project and a list of customers already under contract and the total load it represents.

H. A copy of any contract for the furnishing of heat.

I. A copy of any contract for the furnishing of fuel for the district heating project if this is a waste-to-energy project.

J. A resolution in support of the project from the governing body of the municipality that must include the pledges the municipality proposes to make to guarantee repayment of the construction loan and evidence of the municipality's capability to sponsor the district heating project.

K. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the district heating project would be expected to comply and the present status of compliance with each.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

**7380.0630 APPLICATION PROCEDURE.**

Subpart 1. **Submitting.** The applicant shall submit ten copies of a complete application to the chair of the authority on a form provided by the authority.

Subp. 2. **Review by Department of Public Service.** When an application is received by the chair, copies of the application shall be sent to the commissioner of the Department of Public Service for review. The commissioner of public service shall prepare and submit to the authority a technical evaluation and a recommendation on the application.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

**7380.0640 AUTHORITY REVIEW AND EVALUATION.**

The authority will review the application for compliance with Minnesota Statutes, section 216C.36, and the rules of this part in conjunction with the recommendation of the commissioner of public service on the application. The authority shall also review the commissioner of public service priority list for funding district heating loans that must be based on the requirements under Minnesota Statutes, section 216C.36, subdivisions 3, 4, 5, 6, and 7. The authority shall give higher priority to a project as provided in Minnesota Statutes, section 216C.36, subdivision 4.

The commissioner of finance shall sell bonds and the authority shall make loans for district heating projects only upon the recommendation of the commissioner of public service.

If the authority disapproves the application, the chair shall notify the applicant in writing.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

**7380.0650 REPORTS AND MONITORING.**

Subpart 1. **Quarterly project status report.** The municipality shall submit to the authority, on forms provided by the authority, a quarterly project status report. This report is due within 30 days of the end of each calendar quarter until the design or construction of the district heating project is completed. Projects begun part way through a quarter must submit a quarterly report for the portion of the quarter during which the project was active. The project status report must indicate the progress of the implementation of the district heating project funded, problems encountered, the effect of the problems on the project, and the corrective action taken. The authority shall, in consultation with the commissioner of public service, declare the entire loan amount due and payable if the authority determines that a project does not substantially conform to the construction schedule or if there has been substantial noncompliance with reporting requirements. The executive director of the authority shall inform the municipality in writing of any noncompliance with the construction schedule or reporting requirements and of the time in which the municipality must correct the deficiencies to the authority's satisfaction. If the deficiencies are not corrected to the authority's satisfaction the authority shall declare the entire amount of the loan due and payable.

Subp. 2. **Quarterly financial report.** The municipality shall submit to the authority, on forms provided by the authority, a quarterly financial status report that indicates expenditures of loan funds through the last date of each quarter. This report is due within 30 days of the end of each calendar quarter until the design or construction of the district heating project is completed and all expenses applicable to the loan are paid. Projects begun part way through a quarter must submit a quarterly report for the portion of the quarter during which the project was active.

Subp. 3. **Final report.** Within 60 days of the completion of the project, the municipality shall submit to the authority, on forms provided by the authority, a final financial status report that gives expenditures of the district heating project. The final financial report shall give actual expenditures for the costs incurred.

Subp. 4. **Failure to comply with provisions of part.** If the municipality fails to comply with any of this part, the municipality may, with the advice and consent of the authority, be declared ineligible for further contracts with the state under the district heating loan program.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

## ENERGY CONSERVATION INVESTMENT LOANS

### 7380.0700 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part and in Minnesota Statutes, section 216C.37, subdivision 1, apply to parts 7380.0710 to 7380.0780.

Subp. 2. **Applicant.** "Applicant" means an eligible municipality.

Subp. 3. **Municipality.** "Municipality" means any county, statutory or home rule charter city, town, school district, or any combination of those units under an agreement to jointly undertake projects authorized in this section.

Subp. 4. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

Subp. 5. **Project.** "Project" means all proposed work set forth in an application for a loan to a municipality.

Subp. 6. **Maxi-audit.** "Maxi-audit" means a detailed analysis of energy-saving improvements to existing buildings or stationary energy-using systems, including:

- A. modifications to building structures;
- B. heating, ventilating, and air conditioning systems;
- C. operation practice;
- D. lighting; and
- E. other factors that relate to energy use.

The primary purpose of the engineering analysis is to quantify the economic and engineering feasibility of energy-saving improvements that require capital expenditures of major operational modifications.

A maxi-audit must be performed by or under the direction of and signed by a professional mechanical or electrical engineer or by an architect registered in Minnesota.

Subp. 7. **Conservation measure.** "Conservation measure" means an energy conservation measure that is an installation to a building on stationary energy-using system, and that is primarily intended to reduce energy consumption or allow the use of an alternate energy source including solar, wind, peat, wood, and agricultural residue.

Subp. 8. **Building.** "Building" means an existing building owned and operated by a municipality.

Subp. 9. **Stationary energy-using system.** A "stationary energy-using system" means any permanent structure or system owned and operated by a municipality that requires energy consumption for its function.

Subp. 10. **Payback.** "Payback" means the simple payback that is equal to the design, acquisition, and installation costs of a conservation measure divided by the estimated first year energy cost savings attributable to that measure.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

**7380.0710 MUNICIPAL ENERGY LOAN ELIGIBILITY CRITERIA.**

**Subpart 1. In general.** The authority shall approve energy loans to municipalities to cover the costs of capital expenditures that are conservation measures that have paybacks of ten years or less as specified in a maxi-audit in compliance with Minnesota Statutes, section 216C.37, and parts 7380.0710 to 7380.0740.

Loans are available to municipalities that have not previously received or been offered loan funds under this program, for new projects in municipalities that previously received or were offered loan funds under this program, and as amendments to loans for conservation measures in progress that are experiencing cost overruns or for previously unidentified but related work necessary to successful implementation of a previously approved conservation measure if the payback remains at ten years or less. With the exception of amendments as described above, the authority shall not approve more than one loan for the same conservation measure in the same building or stationary energy-using systems.

**Subp. 2. Prior approval required.** Except for a loan amendment under subpart 1, projects that have been contracted for or begun before the authority notifies the municipality that the loan application is approved are not eligible. This prior approval requirement applies to the acquisition and installation costs as identified in the maxi-audit.

**Subp. 3. New construction.** Only projects for existing buildings and energy-using systems are eligible. New construction is not eligible except if it is a necessary part of successful implementation of a conservation measure for an existing building or energy-using system.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

**7380.0720 MAXIMUM LOAN AMOUNT.**

To assure equitable statewide distribution of loan funds, given that loans will be issued on a first-come, first-served basis, the authority shall establish maximum loan amounts for each type of municipality.

A. School districts with fewer than 900 students and four classroom buildings or less are eligible for up to \$250,000 per district. School districts with greater than 5,000 students or more than ten classroom buildings are eligible for up to \$1,000,000 per district. All other districts are eligible for up to \$500,000 per district. Cooperative vocational centers and any other eligible educational facilities that are not included in school districts are limited to \$250,000.

B. Cities of the first class, as defined in Minnesota Statutes, section 410.01, are eligible for up to \$1,000,000 per city. Cities of the second class, as defined in Minnesota Statutes, section 410.01, are eligible for up to \$500,000 per city. All other cities are eligible for up to \$250,000 per city.

C. Counties containing a city of the first class, as defined in Minnesota Statutes, section 410.01, are eligible for up to \$1,000,000 per county. All other counties are eligible for up to \$500,000 per county.

D. Towns are eligible for up to \$100,000 per town.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

**7380.0730 MUNICIPAL ENERGY LOAN APPLICATION CONTENTS AND PROCEDURES.**

**Subpart 1. In general.** A municipality shall submit an application to the authority on a form provided by the authority. An application must be completed, dated, and signed in ink by a duly authorized official of the applicant and must include the authorized official's title.

**Subp. 2. Contents.** The application must contain:

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- A. the municipality name or school district or vocational center number;
- B. the complete mailing address of the applicant, including the county;
- C. the contact person's name, title, and telephone number;
- D. the federal employer identification number;
- E. a list of buildings and stationary energy-using systems included in the request and the dollar amount requested per building or system;
- F. the name and address of each building or system, including the county;
- G. the total floor area in square feet for each building;
- H. the original construction date for each system, building, and building additions;
- I. the state legislative district;
- J. a summary description of each conservation measure, its maxi-audit item number, its estimated cost, the loan amount requested, its estimated annual energy-cost savings, its estimated annual fuel and electric savings, its estimated payback, and the estimated dates the conservation measure will be started and completed; and
- K. a certification to assure proper and efficient operation of the building or system once the project is completed.

An application must also contain an irrevocable resolution of the governing body of the municipality to annually levy or otherwise collect sufficient funds to guarantee loan repayment and a maxi-audit for each building and energy-using system involved in the project. One copy of the application is required.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

## 7380.0740 MUNICIPAL ENERGY LOAN APPLICATION REVIEW.

**Subpart 1. Administrative review.** The authority shall examine the loan application to verify that the applicant is eligible, that the required forms and reports are included and are correctly completed, that an irrevocable resolution of the governing body of the municipality is included, and that the estimated start and end dates of the conservation measures included in the project are reasonable.

**Subp. 2. Technical review.** The authority shall forward a copy of the application to the commissioner of public service. The commissioner of public service shall prepare and submit to the authority a technical evaluation of the application. The technical evaluation must be on the forms provided by the authority.

Conservation measures with paybacks of ten years or less that are identified and described in maxi-audits are eligible. The minimum requirements for maxi-audits are as provided in Code of Federal Regulations, title 10, section 455.42 (May 21, 1981). Loans may not be awarded to buildings or systems with a remaining useful life less than or equal to the payback of the conservation measures proposed. Loans may not be awarded for a conservation measure if the payback of the conservation measure proposed is greater than or equal to the useful life of the measure.

The commissioner of public service shall examine a maxi-audit that accompanies a loan application to verify that conservation measures requested are analyzed with adequate details of the existing conditions and proposed changes using appropriate calculation procedures, and that the proposed measures are eligible.

**Subp. 3. Review results.** The commissioner of public service shall forward the technical evaluation of an application to the authority. The authority shall accept, reject, or modify a loan application request as necessary based on the administrative and the technical review. The authority shall give to an applicant whose application is rejected a notice of problems encountered in the review process and options available to correct them for resubmission of the application.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

### **7380.0750 LOAN APPROVAL; DISBURSEMENT OF FUNDS.**

**Subpart 1. Authority approval; priority.** The authority shall approve loans that comply with Minnesota Statutes, section 216C.37, and with parts 7380.0710 to 7380.0740, on a first-come, first-served basis based on the order in which eligible and complete loan applications are received by the authority. If eligible and complete loan applications received at the same time cannot all be funded due to a lack of available funds, the authority shall first approve loans to school districts. If funds are not available for all eligible applications from school districts, the authority shall approve loans so that each affected district receives an equal percentage of the eligible loan amount request. If the available funds are adequate to fully fund all eligible applications from school districts, but not all other eligible applications, the authority shall approve loans to school districts for the full eligible loan amount request and approve loans to other eligible municipalities so that each affected applicant receives an equal percentage of the eligible loan amount request.

**Subp. 2. Execution of loan contract and disbursement of funds.** Upon approval of a municipal energy loan, the authority shall send a loan contract to the applicant. The authority shall attach to a loan contract a loan repayment schedule based on the approved loan application according to Minnesota Statutes, section 216C.37, subdivision 4, paragraph (b). The applicant shall have a duly authorized official execute and return the loan contract to the authority for execution of the loan contract by state officials and for disbursement of the loan funds. Loan funds must be disbursed upon execution of and according to the terms of the loan contract.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

### **7380.0760 REPORTS AND MONITORING FOR MUNICIPAL ENERGY LOAN PROGRAM.**

**Subpart 1. In general.** A municipality that receives a loan from the authority shall submit the reports listed in subparts 2 to 5.

**Subp. 2. Annual project status report.** The municipality shall submit to the authority, on forms provided by the authority, an annual project status report covering the period from July 1 to June 30. This report is due each July 31 until the project is completed. The project status report must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problems on the project, and the corrective action taken. If at any time the municipality fails to substantially comply with the start and end dates given in the loan application as approved, and if the municipality cannot reasonably justify to the authority its lack of progress, the entire loan amount may become due and payable at the discretion of the authority.

**Subp. 3. Quarterly financial report.** A municipality shall submit to the authority, on forms provided by the authority, a quarterly financial status report that indicates expenditures of loan funds through the last date of each quarter. This report is due within 30 days of the end of each calendar quarter until the project is completed.

**Subp. 4. Final report.** Within 60 days of the completion of the project, the municipality shall submit to the authority, on forms provided by the authority, a final project status report and a financial status report that gives actual expenditures of the measures implemented.

**Subp. 5. Annual energy report.** The municipality shall submit to the commissioner of public service, on forms provided by the authority, an annual energy

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use and energy expenditure report by fuel type. The report is due each October 31 for the duration of the loan contract period, or for a minimum of three years after project completion if the loan is paid in less than three years, unless the authority cancels this requirement before the end of the loan contract period.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

## 7380.0770 MUNICIPAL ENERGY LOAN PROGRAM EVALUATION.

The authority shall evaluate the program's effectiveness in reducing the energy costs of participating municipalities. The municipalities shall provide the authority with information that is reasonably needed to conduct an evaluation of the loan program, including the reports required in part 8300.2507.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

## 7380.0780 CLOSURE OF MUNICIPAL ENERGY LOAN ACCOUNT.

If the authority determines that the project that was approved for loan funds has been implemented, it shall authorize closure of the loan account upon full repayment.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*