

## CHAPTER 7607

### DEPARTMENT OF COMMERCE

### ENERGY CONSERVATION INVESTMENT LOANS

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#### 7607.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part and in Minnesota Statutes, section 216C.37, subdivision 1, apply to parts 7607.0110 to 7607.0180.

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; L 1993 c 327 s 15*

**7607.0110 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 7607.0110 to 7607.0140.

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; L 1993 c 327 s 15*

**7607.0120 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 a maximum loan amount of \$1,500,000 for each municipality.

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

**History:** *13 SR 1922; 16 SR 1553; L 1993 c 327 s 15*

**7607.0130 MUNICIPAL ENERGY LOAN APPLICATION.**

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:

- 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; L 1993 c 327 s 15*

#### 7607.0140 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 commerce. The commissioner of commerce 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 commerce 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 commerce 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; L 1993 c 327 s 15; L 2001 1Sp4 art 6 s 1*

#### 7607.0150 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 7607.0110 to 7607.0140, 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 Department of Finance for execution of the loan contract by state officials and for disbursement of the loan funds. Loan funds must be disbursed for the reimbursement of eligible project costs upon execution of and according to the terms of the loan contract.

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

**History:** *13 SR 1922; 16 SR 1553; L 1993 c 327 s 15*

#### **7607.0160 MONITORING MUNICIPAL ENERGY LOANS, REPORTS.**

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 commerce, on forms provided by the authority, an annual energy 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; L 1993 c 327 s 15; L 2001 1Sp4 art 6 s 1*

#### **7607.0170 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; L 1993 c 327 s 15*

#### **7607.0180 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; L 1993 c 327 s 15*