

CHAPTER 8300
ENERGY AND ECONOMIC DEVELOPMENT
AUTHORITY
FINANCIAL ASSISTANCE

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8300.0100 DEFINITIONS.

Subpart 1. **Statutory definitions.** The terms defined in Minnesota Statutes, section 116J.88 have the same meanings when used in chapter 8300 as ascribed to them in the act.

Subp. 2. **Act.** "Act" means Laws of Minnesota 1980, chapter 547, as now in effect and as amended from time to time.

Subp. 2a. **Applicant.** "Applicant" means a person, partnership, firm, corporation, or association that applies to the authority for financial assistance.

Subp. 2b. **Authority.** "Authority" means the energy and economic development authority, formerly known as the small business finance agency.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of energy and economic development or his or her designee.

Subp. 4. **Financial assistance.** "Financial assistance" means loans, loan guarantees or insurance, and any other use of funds permitted by the act.

Subp. 5. **Members.** "Members" means the commissioner and those persons appointed to the authority under Minnesota Statutes, section 116J.89.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.0200 [Repealed, 9 SR 111]**8300.0300 REGULAR MEETINGS.**

Regular meetings of the authority shall be held on the fourth Wednesday of each month at 3:00 p.m. at the offices of the authority in St. Paul, Minnesota, unless another place of meeting is designated by resolution. If this date falls on a legal holiday, the regular meeting shall be held on the next succeeding business day.

Statutory Authority: *MS s 116J 91 subd 4*

History: *9 SR 111*

8300.0400 SPECIAL MEETINGS.

Special meetings of the authority may be called upon reasonable notice to all members by the chairperson or by a majority of the existing members of the authority, for the purpose of transacting any business designated in the notice, and shall be held at the business offices of the authority in St. Paul, Minnesota, unless another place of meeting is designated by resolution. At a special meeting, no business may be considered other than as designated in the notice unless all of the members of the authority are present at the special meeting.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.0500 PUBLIC APPEARANCES AT MEETINGS OF MEMBERS.

The following procedures shall govern public appearances at meetings of the members:

A. With respect to regular meetings, the commissioner shall complete the agenda for meetings of the members not less than five nor more than seven days prior to the date of the meeting.

B. With respect to regular meetings, any person who desires to appear and address the members shall make a written request to the commissioner, at least ten days prior to the date of the meeting, setting forth the nature of the matter about which the person wishes to appear.

C. With respect to regular or special meetings, any person who desires to appear and address the members with respect to any matter enumerated on the agenda shall make a written request to the commissioner, at least 24 hours before the meeting.

D. Any member may at any time request that a person be permitted to appear and address the members at any regular or special meeting. All requests must be placed on the agenda for review by the members at the meeting. A majority vote of the members present is required to grant a request to address the members.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.0600 MISREPRESENTATION OF APPLICATION INFORMATION.

Subpart 1. **Affirmative duty.** An applicant or financial institution has an affirmative duty and obligation to update and correct all information provided to the authority.

Subp 2. **Authority's action.** If information provided to the authority by either the applicant or the financial institution contains a material misrepresentation or omission, the authority may:

A. reject an application whether or not previously approved;

B. refuse to provide financial assistance;

C. make financial assistance provided by it immediately due and payable; or

D. revoke any preliminary or final resolution prior to the provision of financial assistance or prior to the sale of the bonds approved by it.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.0700 [Repealed, 9 SR 111]

POLLUTION CONTROL FINANCIAL ASSISTANCE**8300.1000 UNIFORM POLLUTION CONTROL FINANCIAL ASSISTANCE APPLICATION FORMS.**

The commissioner shall prepare uniform financial assistance application forms for each program of the authority setting forth the information necessary for the determination of probable eligibility for pollution control financial assistance. All forms must be submitted to the members for their review at a regular or special meeting and become effective only upon the approving vote of the members.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.1100 ACCEPTANCE OF POLLUTION CONTROL FINANCIAL ASSISTANCE APPLICATIONS.

In determining whether to accept applications for pollution control financial assistance, the members shall examine the following facts:

- A. the probable eligibility of the pollution control financial assistance for a federal guarantee;
- B. the nature of the pollution control facilities to be financed with the financial assistance;
- C. the location of the proposed facilities;
- D. the availability of bonding authority under the act; and
- E. the extent to which the financial assistance will assist and encourage the establishment, maintenance, and growth of small business in Minnesota and reduce to a manageable level the cost of the control of pollution and disposal of waste resulting from the operations of small business.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.1200 AUTHORIZATION OF POLLUTION CONTROL FINANCIAL ASSISTANCE.

No pollution control financial assistance may be authorized until the members of the authority have received and reviewed the recommendation of the commissioner relating to the financial assistance, and until the members have adopted a resolution approving the financial assistance. If the authority intends to fund the financial assistance by issuing bonds or bond anticipation notes, the resolution must include a statement that the obligation of the authority to provide financial assistance is contingent on the ability of the authority to sell its bonds or bond anticipation notes, on terms which the members of the authority, in their sole discretion, deem acceptable. The resolution may include other conditions and provisions as the authority in its sole discretion deems advisable for prudent financial management of authority financial assistance.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

BUSINESS FINANCIAL ASSISTANCE**8300.1500 OVERVIEW OF PROCEDURE FOR APPROVAL OF BUSINESS FINANCIAL ASSISTANCE.**

Subpart 1. Owner's duty. To be eligible for business financial assistance, an owner shall make an application for business financial assistance under parts 8300.1600 to 8300.1900 on approved application forms of the authority.

Subp. 2. Commissioner's duty. The commissioner shall process the application in accordance with the procedures and limitations set out in parts 8300.1600 to 8300.1900. The criteria the commissioner shall use in approving an application for processing are set out in parts 8300.1600 to 8300.1900.

Subp. 3. **Agency's duties.** Upon the determination by the commissioner that the business financial assistance requested meets the eligibility requirements of parts 8300.1600 to 8300.1900, the authority shall determine under parts 8300.2100 and 8300.2200 if the authority intends to fund the requested business financial assistance subject to final authorization by the authority.

Subp. 4. **Resolution to approve financial assistance.** Upon the determination by the authority that the financial assistance requested in an application which has been accepted for processing can and should be funded, the authority shall adopt a resolution approving the financial assistance. If the authority intends to fund the financial assistance by issuing bonds, the resolution must include a provision that the obligation of the authority to provide the financial assistance is contingent on the ability of the authority to sell its bonds on terms which the authority, in its sole discretion, deems acceptable. In addition, a resolution may contain other provisions and conditions as the authority, in its sole discretion, deems advisable.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.1600 APPLICATION PROCEDURES.

Subpart 1. **Submission of application.** The owner shall submit to the authority copies of the completed application upon the forms provided by the authority.

Subp. 2. **Incomplete applications.** Application is deemed to have been made when the authority receives a completed application with all required documentation and exhibits, together with the required fee specified in the application forms. If an incomplete application is received, the commissioner shall notify the applicant specifying the deficiencies. The applicant has 60 days from the date of the commissioner's notification to complete the application. If the application is not completed within 60 days, the application is deemed to be rejected and the applicant shall reapply to be further considered. If the commissioner is able to determine from the information submitted on an incomplete application that the applicant is not an owner or the proceeds of the requested business financial assistance are intended to finance expenditures not permitted under the act, the commissioner shall reject the application and so notify the applicant.

Subp. 3 **Review by commissioner.** Upon receiving a completed application, the commissioner shall review the application and shall make a determination as to whether the applicant is an owner as defined in the act or the proceeds of the requested business financial assistance are intended to finance expenditures permitted under the act.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.1700 EXPENDITURES ELIGIBLE FOR FINANCIAL ASSISTANCE.

Costs eligible for funding are the expenditures set forth in the act, including but not limited to the following:

- A. land and/or building acquisition costs;
- B. site preparation;
- C. construction costs;
- D. engineering costs;
- E. equipment and/or machinery;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. trustee's fee;

I. fees of guarantor, fees or insurance contracts, letters of credit, municipal bond insurance, and surety bonds,

J. Small Business Administration processing and administration fee, if applicable;

K. authority fee and administrative costs and expenses;

L. certain contingency costs;

M. interest costs during construction;

N. legal fees, including those of authority's bond counsel; and

O. short-term costs of conducting an eligible small business.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.1800 NOTIFICATION OF APPROVAL OR DISAPPROVAL OF APPLICATION.

After approving or disapproving an application, the commissioner shall notify the applicant of the determination and the treatment of the application as follows.

A. If the commissioner determines that the applicant is an owner as defined in the act and that the costs specified in the application are eligible, the application is then deemed accepted for processing and treated in accordance with the authority review provisions established in parts 8300.2100 and 8300.2200.

B. If the commissioner determines that the applicant is not an owner as defined in the act, the application must be rejected and not further considered.

C. If the commissioner determines that any of the costs described in the application are not eligible for financial assistance, the commissioner shall note the deficiencies in the application and shall so notify the owner. The owner has 30 days from the date of the commissioner's notification to amend the application. If the application is amended in a timely fashion to include only eligible costs, it must be treated in accordance with the authority review provisions established in parts 8300.2100 and 8300.2200. If the application is not properly amended within 30 days, the application is deemed rejected and not further considered.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.1900 REVIEW OF REJECTED APPLICATION.

If an application is rejected for processing under part 8300.1800, item B or C, the applicant may, within 30 days after date of the notification by the commissioner, request the commissioner to submit the rejected application to the authority for review at the next regularly scheduled meeting of the authority for which the agenda has not been established. If the authority approves the application, the application must be treated in accordance with parts 8300.2100 and 8300.2200.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.2000 UNIFORM BUSINESS FINANCIAL ASSISTANCE APPLICATION FORMS.

The commissioner shall prepare uniform financial assistance application forms for use by the public setting forth the information necessary for the determination of eligibility for business financial assistance under the act and this

chapter.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.2100 EVALUATION PROCEDURE.

Applications approved for processing by the commissioner must be presented to the authority for approval or disapproval. If the authority disapproves the application, the commissioner shall so notify the applicant. If the authority approves the business financial assistance it shall pass a resolution giving approval to the project to be financed and stating the name of the owner, a brief description of the project, the amount of the financial assistance, and other provisions as the authority in its sole discretion deems advisable for prudent financial management of authority financial assistance. The authority shall first pass a preliminary resolution if the authority intends to fund the financial assistance by issuing bonds. The preliminary resolution must not obligate the authority to issue bonds or to fund financial assistance, but must only constitute an expression of current intention of the authority to issue bonds or to fund the financial assistance. The preliminary resolution may contain a time limit with respect to the issuance of the bonds, may be revoked or amended by the authority at any time prior to the final resolution of the authority without liability to the authority, and may impose any conditions or requirements which the authority deems desirable. The commissioner shall notify the applicant of the authority's approval and furnish to the applicant a copy of the preliminary resolution.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*

8300.2200 FACTORS TO CONSIDER IN EVALUATION PROCEDURE.

The authority shall review and consider approval of an application for business financial assistance, on the basis of effectuating the purposes of the act, regarding the following:

A. that the applicant is an owner as defined in the act,

B. that the small business reasonably can be expected to maintain a sound financial condition and to retire the principal and pay the interest on the financial assistance made or guaranteed in accordance with the terms of the financial assistance agreement;

C. that the project is economically feasible with a reasonable expectation that the life of its economic feasibility will exceed the maturity of the loan or duration of financial assistance, as appropriate;

D. that the project will create or maintain a sufficient number and type of jobs to justify authority participation in its financing;

E. that the project's feasibility is sufficient to allow the authority to sell the bonds if any required for its financing;

F. that the project and its development are economically advantageous to the state, that the provision to meet increased demand upon public facilities as a result of the project is reasonably assured, and that energy sources to support the successful operation of the project are adequate,

G. that if the project shall have the effect of a transfer of employment from one area of this state to another the authority determines that the project is economically advantageous to the state or that the project is necessary to the continued operation of the business enterprise within the state, and

H. that the project will assist in fulfilling the purposes of the act.

Statutory Authority: *MS s 116J.91 subd 4*

History: *9 SR 111*