

1587.1200 PROCEDURES FOR APPLICATION PROCESSING.

Subpart 1. **Deadline for submission.** The applicant shall submit a complete application to the commissioner by the first business day of any month in order for the board to consider it in that month. If an application is received after the first of the month and can be reviewed by the commissioner for eligibility and financial feasibility prior to the board agenda deadline, the board may consider the application at the meeting in that month.

Subp. 2. **Completed applications.** An application is complete when the commissioner receives all required documentation and exhibits.

Subp. 3. **Incomplete applications.** If an incomplete application is received, the commissioner shall notify the applicant of specific deficiencies in the application. The applicant has 60 days from the date of mailing of the commissioner's notification to complete the application. If the application is not completed and received by the commissioner within 60 days, the application is deemed to be rejected and the applicant shall reapply to be further considered.

Subp. 4. **Review of eligibility of project and applicant.** The commissioner shall review all completed applications to determine if the project and the applicant are eligible and meet the requirements of the act and any of parts 1587.1000 to 1587.1300 and any parts relating to the financial assistance for which the applicant has applied.

If the project and applicant are eligible, the commissioner shall review the application for economic feasibility as provided in subpart 6.

Subp. 5. **Ineligible project or applicant.** The commissioner shall notify the applicant in writing if the applicant or the project is ineligible. The applicant has 30 days from the date of the commissioner's notification to amend the application.

Upon receipt of an amended application, the commissioner shall review the amended application under subpart 4. The commissioner shall reject the amended application if the project or applicant are ineligible. If the project and applicant are eligible, the commissioner shall review the amended application for economic feasibility under subpart 6.

If the application is not amended within 30 days, the application must be rejected and will not receive any further consideration.

Subp. 6. **Economic feasibility review.** The commissioner shall review the application in accordance with generally accepted commercial lending practices, including the use of the standards as printed in the most current annually updated version of the Annual Statement Studies, issued by Robert Morris Associates, Philadelphia, Pennsylvania.

The commissioner shall obtain any other credit information when available from private credit rating agencies including, but not limited to, Standard & Poors and Dun

& Bradstreet. In accordance with generally accepted commercial lending practices, the commissioner may check personal references.

The commissioner shall determine if the applicant can generate sufficient cash flow and maintain a sound financial condition.

The commissioner shall determine if there is sufficient collateral for the financial assistance. The submission of the application by the commissioner to the board at a board meeting shall be deemed conclusive evidence that the commissioner has made the determinations required pursuant to this subpart.

Subp. 7. **Rejection of application based on economic feasibility.** The commissioner shall notify the applicant in writing if the application is not economically feasible and the application is rejected.

If the application is rejected due to economic feasibility, the applicant may, within 30 days after written notification by the commissioner, request that the commissioner submit the rejected application to the board for review at the next regularly scheduled meeting of the board for which the agenda has not been established.

If so submitted, the board must evaluate the application at its board meeting, in accordance with subpart 9.

Subp. 8. **Certification of public purpose for small business and business loans.** In addition to the economic feasibility review in subpart 6, the applicant must certify that the project assists in fulfilling the purposes of the act as expressed in Minnesota Statutes 1986, section 116M.09, or assists in fulfilling one or more of the following criteria:

A. The applicant is located in an area of the state that is experiencing one of the most severe unemployment rates in the state.

B. The applicant is located in a border community that experiences a competitive disadvantage due to location and with this financial assistance the applicant would be induced to stay in Minnesota rather than to move to another state.

C. The applicant is likely to expand within the state and to create additional taxable property to local units of government.

D. The financial assistance applied for will help induce the applicant to locate in an area of economic distress or will help to provide jobs that would not otherwise be available to that area without the inducement of this financial assistance.

E. The financial assistance applied for will create or maintain sufficient numbers and types of jobs to justify participation in the financial assistance programs.

F. Energy sources and public facilities will be sufficient to support the successful operation of the project.

G. If the financial assistance will have the effect of a transfer of employment from one area of the state to another, 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.

Subp. 9. **Board evaluation procedure.** Applications approved for processing by the commissioner must be presented to the board for approval or disapproval. The board shall review and consider approval of an application on the basis of effectuating the purposes of the act as expressed in Minnesota Statutes 1986, section 116M.09 or assist in fulfilling one or more of the criteria listed in subpart 8. If the board disapproves the application, the commissioner shall so notify the applicant. If the board approves the financial assistance, it shall pass a preliminary or a final resolution giving approval to the project to be financed and stating in either the preliminary or final resolution or combination of both the name of the project owner; a brief description of the project; the maximum amount of bonds to be issued, or the maximum amount of the loan to be made, or the maximum amount of the loan to be guaranteed or insured, whichever is applicable; and other provisions as the board in its sole discretion deems advisable for prudent financial management of board financial assistance. The commissioner shall notify the applicant of the board's approval and provide the applicant with a copy of the resolution passed. If the financial assistance is funded by bonds, then passage of a preliminary and a final resolution as provided in subpart 10 are required before financial assistance is approved. Throughout this process if the board does not extend financial assistance, the board has no liability to the applicant.

Subp. 10. **Funding of financial assistance by bonds.** If the board intends to fund the financial assistance by issuing bonds, the board shall first pass a preliminary resolution. The preliminary resolution must not obligate the board to issue bonds or to fund financial assistance, but must only constitute an expression of current intention of the board to issue bonds or to fund the financial assistance. If the board subsequently determines that there are no adverse changes in the financial conditions or key personnel of the applicant, market conditions, availability of bond issuance authority, and other conditions that the board deems necessary and the board decides in accordance with generally accepted commercial lending practices to make financial assistance available, the board shall pass a final resolution that authorizes the issuance and sale of bonds to extend financial assistance. The final resolution must specify the terms and conditions under which bonds will be issued. The preliminary resolution may contain a time limit with respect to the issuance of the bonds, may be revoked or amended by the board at any time prior to the final resolution of the board without liability to the board, and may impose any conditions or requirements that the board deems desirable. The commissioner shall notify the applicant of the board's approval and provide the applicant with a copy of the resolution passed. Throughout this process, if the board does not extend financial assistance, the board has no liability to the applicant.

Subp. 11. **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 board.

Statutory Authority: *MS s 41A.04*

History: *10 SR 475; L 1987 c 386 art 2 s 22,23*

Published Electronically: *September 10, 2007*