

**7380.0250 DEFINITIONS.**

Subpart 1. **Scope.** The terms defined in this part apply to parts 7380.0250 to 7380.0480. In addition, terms defined in Minnesota Statutes, chapter 446A, have the meanings as defined therein.

Subp. 2. **Act.** "Act" means:

A. for the drinking water revolving fund in parts 7380.0252 to 7380.0297, act means the Public Health Service Act, as amended, federal Safe Drinking Water Act, United States Code, title 42, chapter 6A, Public Health Service, subchapter 12, Safety of Public Water Systems, Part E, sections 300j-12, et seq., Public Law 104-184, title XIV, section 1452, Part E; and

B. for the clean water revolving fund in parts 7380.0400 to 7380.0480, act means the federal Water Pollution Control Act, as amended, United States Code, title 33, Navigation and Navigable Waters Act, chapter 26, Water Pollution Control and Prevention, subchapter VI, State Water Pollution Control Revolving Funds, section 1381, et seq., Public Law 92-500.

Subp. 3. **Applicant.** "Applicant" means an entity that has applied, or intends to apply, to the authority for financial assistance, and:

A. for a drinking water revolving fund project, is any county, city, town, township, regional entity, or other governmental entity, or such other entity as provided in part 4720.9010, which is responsible for providing public drinking water.

If an entity responsible for providing public drinking water is not empowered to issue a general obligation bond to the authority and another governmental entity agrees to issue a general obligation bond on behalf of the drinking water supplier, applicant refers to both entities. All data used in these circumstances to determine the interest rate of a loan under part 7380.0272 shall be based on the entity responsible for providing public drinking water; or

B. for a clean water revolving fund project, is a governmental unit as defined in Minnesota Statutes, section 446A.02, subdivision 5.

Subp. 4. **Application.** "Application" means the completed documents, including the application forms obtained from the authority, submitted to the authority by the applicant which contain information and data in support of the applicant's request for financial assistance.

Subp. 5. **Authority.** "Authority" means the Minnesota Public Facilities Authority created in Minnesota Statutes, chapter 446A.

Subp. 5a. **Base discount.** "Base discount" means the interest rate discounts set by the authority in the drinking water revolving fund intended use plan and the clean water

revolving fund intended use plan to be applied in the determination of interest rates as provided in parts 7380.0272, subpart 3, and 7380.0442, subpart 3. The authority shall have the option to set the base discount at decreasing levels for increasing loan amounts.

Subp. 6. **Basis point.** "Basis point" means the shorthand reference to 1/100 (0.01) of one percent.

Subp. 6a. **Bond yield scale-authority bonds.** "Bond yield scale-authority bonds" or "authority scale" means a scale of annual rates that consists of the yield to maturity for each maturity including mandatory sinking fund redemptions of the applicable series of authority bonds. If a loan has principal redemptions in years for which no maturity exists in the authority bond series, the authority will use, for those years, the rates from the applicable bond yield scale-market index.

Subp. 6b. **Bond yield scale-market index.** "Bond yield scale-market index" or "market scale" means the scales of annual rates by term of maturity and by grade, for example, Aaa, Aa, A, on tax-exempt municipal bonds, from a nationally recognized daily index.

Subp. 7. **Borrower.** "Borrower" means an applicant that has entered into a loan agreement with the authority.

Subp. 8. [Repealed, 32 SR 321]

Subp. 8a. **Debt security.** "Debt security" means a general obligation bond or note, revenue bond, or promissory note and other instruments required by the authority.

Subp. 9. **Debt service account.** "Debt service account" means a separate account established and maintained in a borrower's official financial records to account for the accumulation of resources for, and the payment of, the debt security issued by a borrower and purchased by the authority to effect the loan transaction for the financing of the borrower's project.

Subp. 10. **Dedicated sources of revenue.** "Dedicated sources of revenue" means one or more sources of revenue pledged by a borrower for payment of debt service required by the loan agreement.

Subp. 10a. **Default.** "Default" means a failure by a borrower to make timely payments of interest and principal or a failure to comply with the terms and conditions of the debt security and the loan agreement with the authority, including parts 7380.0250 to 7380.0480, where applicable.

Subp. 11. [Repealed, 32 SR 321]

Subp. 12. **Eligible costs.** "Eligible costs" means the costs that may be financed by the authority, pursuant to the applicable acts, provided that the eligible cost items are reasonable, necessary, permitted by the applicable law, and are within the project scope as

certified by the Department of Health or Pollution Control Agency, as applicable. Eligible costs may include, but are not limited to, the following:

A. land acquisition costs:

(1) for a drinking water revolving fund project under United States Code, title 42, chapter 6A, subchapter XII, Part E, section 300j-12; and

(2) for a clean water revolving fund project under United States Code, title 33, chapter 26, subchapter VI, sections 1381 to 1387;

B. site preparation;

C. construction costs;

D. engineering costs;

E. cost of equipment and machinery;

F. bond issuance costs;

G. underwriting, financial advisor, or placement fees;

H. trustee or paying agent fees;

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

J. certain contingency costs;

K. interest costs during construction, including capitalized interest; and

L. legal fees, including those of the authority.

Subp. 13. [Repealed, 32 SR 321]

Subp. 14. **Executive director.** "Executive director" means the executive director of the authority.

Subp. 15. **Financial capability.** "Financial capability" means the capability of an applicant to pay for its portion of the project costs, debt service, operation, and maintenance. Financial capability indicators include, but are not limited to, available fiscal and socioeconomic data such as population trends, median household income, composition of municipal long-term debt, debt per capita, debt service coverage ratio, and available reports such as audits or financial statements, as applicable, financial forecasts, credit reports, and net worth calculations.

Subp. 16. **Financial institution.** "Financial institution" means an investment or banking institution, a savings and loan, an insurance company, an investment company, or a public entity authorized to make loans.

Subp. 17. **Fund.** "Fund" means:

A. for parts 7380.0252 to 7380.0297, the drinking water revolving fund as provided in Minnesota Statutes, section 446A.081, subdivision 2; or

B. for parts 7380.0400 to 7380.0480, the clean water revolving fund created by Minnesota Statutes, section 446A.07.

Subp. 18. **General obligation bond.** "General obligation bond" means a bond or note secured by the full faith and credit of a borrower as provided in Minnesota Statutes, chapters 116A and 475.

Subp. 19. **Interest.** "Interest" means the interest charged on the loan principal plus any servicing fees as provided in Minnesota Statutes, section 446A.04, subdivision 5.

Subp. 20. [Repealed, 32 SR 321]

Subp. 20a. **Loan.** "Loan" means the transaction in which the authority purchases the debt security of a borrower.

Subp. 21. **Loan agreement.** "Loan agreement" means the financing agreement between a borrower and the authority that outlines the terms and conditions under which the authority will purchase the debt security of the borrower.

Subp. 21a. **Loan closing.** "Loan closing" means the date on which a borrower delivers and the authority accepts an executed debt security.

Subp. 21b. **Municipal drinking water system.** "Municipal drinking water system" means the collective term to denote all property involved in the operation of a public drinking water supply system, including, but not limited to, the source of the drinking water supply, treatment facilities, water storage, water lines, valves, meters, and general property, regardless of whether a private, public, or nonprofit system.

Subp. 21c. **Municipal storm water system.** "Municipal storm water system" means the collective term to denote all publicly owned property involved in the operation of a storm water treatment system including, but not limited to, a device, method, system, or systems designed to reduce, store, treat, separate, stabilize, or dispose of storm water for purposes of preventing or abating pollution, or maintaining or improving water quality.

Subp. 21d. **Municipal wastewater system.** "Municipal wastewater system" means the collective term to denote all publicly owned property involved in the operation of a wastewater treatment system, including, but not limited to, collector sewers, interceptors, lift stations, treatment facilities, outfall lines, and general property.

Subp. 22. [Repealed, 32 SR 321]

Subp. 23. **Official statement.** "Official statement" means the legal document prepared by the authority that summarizes all the salient features of the underlying documents and

agreements which support the bond offerings of the authority. It is considered a disclosure document which presents information that is material to the offering, and contains what a reasonable investor would need to know in making a decision about investing in the bond offering. The document sets forth the pertinent facts concerning the issuer, the issuer's financial condition, the security pledged for the bonds being offered, the projected use of the proceeds of the bond sale, and pertinent facts about the authority's borrowers.

Subp. 24. **Participation loan.** "Participation loan" means a loan made under contract with a financial institution in which the authority purchases a portion of the financial institution's loan to an eligible borrower. The authority's share of the participation loan must not exceed 50 percent of the loan balance at the time of purchase or \$50,000, whichever is less.

Subp. 25. [Repealed, 32 SR 321]

Subp. 25a. **Project.** "Project" means the planning, design, and construction of a drinking water, wastewater, or storm water system, or portion thereof, for which an applicant applies for financial assistance from the authority.

Subp. 26. **Project completion.** "Project completion" means the date on which the operation of the project's major components will be initiated or will be capable of being initiated.

Subp. 27. [Repealed, 32 SR 321]

Subp. 27a. **Project service area.** "Project service area" means the geographic area to be served by the project. If the project will serve only a portion of the entire geographic area served by the applicant's drinking water, wastewater, or storm water system, the project service area shall be that portion of the geographic area to be served by the project, unless any of the costs of the project will be paid by the entire geographic area served by the applicant's drinking water, wastewater, or storm water system.

Subp. 27b. **Residential system cost.** "Residential system cost" means that portion of the costs associated with building, operating, and maintaining the municipal drinking water system, the municipal storm water system, or the municipal wastewater system that will be charged to residential users in the project service area.

Subp. 28. **Revenue bond.** "Revenue bond" means a bond or note payable from one or more specified sources of revenue and to which the full faith and credit of the issuing entity is not pledged, issued by a city of the first class which cannot issue a general obligation bond to finance its water supply system without first obtaining the approval of the electors at a referendum.

Subp. 28a. **Significant storm water contributor.** "Significant storm water contributor" means a nonresidential property owner or developer from whose property the current storm water flow or the projected storm water flow causes the need for the project,

or which, after project completion, will exceed 50 percent of the storm water treatment system's capacity.

Subp. 28b. **Significant storm water contributor agreement.** "Significant storm water contributor agreement" means a written agreement between a borrower and a significant storm water contributor that will protect the financial interest of the borrower in the event the storm water contributor curtails or ceases its operation. This agreement must include a secured, written guarantee by the significant storm water contributor for its proportional share of the debt payments for the term of the authority's loan with the borrower.

Subp. 28c. **Significant wastewater contributor.** "Significant wastewater contributor" means a nonresidential user of a municipal wastewater treatment system whose current wastewater flow or projected wastewater flow causes the need for the construction of the project, or whose wastewater contribution, after project completion, will exceed 50 percent of the wastewater treatment system's capacity.

Subp. 28d. **Significant wastewater contributor agreement.** "Significant wastewater contributor agreement" means a written agreement between a borrower and a significant wastewater contributor that will protect the financial interest of the borrower in the event the wastewater contributor curtails or ceases its operation. The agreement must include a secured, written guarantee by the significant wastewater contributor for its proportional share of the debt payments for the term of the authority's loan with the borrower.

Subp. 29. **Significant water user.** "Significant water user" means a nonresidential user of a municipal drinking water system whose current water needs or projected water needs cause the need for construction of the project, or whose water intake after the project is completed will exceed 50 percent of the total gallons annually supplied by the water supply system.

Subp. 29a. **Significant water user agreement.** "Significant water user agreement" means an agreement between a borrower and a significant water user that will protect the financial interest of the borrower in the event the water user curtails or ceases its operation. The agreement must include a secured, written guarantee by the significant water user for its proportional share of the debt payments for the term of the authority's loan with the borrower.

Subp. 30. [Repealed, 32 SR 321]

Subp. 31. [Repealed, 32 SR 321]

Subp. 32. [Repealed, 32 SR 321]

Subp. 33. [Repealed, 32 SR 321]

**Statutory Authority:** *MS s 446A.07; 446A.081; 446A.11*

**History:** 22 SR 397; 32 SR 321; L 2008 c 277 art 3 s 4

**Published Electronically:** *October 10, 2008*