

6-1-84

1 Energy and Economic Development Authority

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3 Adopted Rules Governing the Minnesota Energy and Economic  
4 Development Authority

5

6 Rules as Adopted

7 8300.0100 DEFINITIONS.

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

11 Subp. 2. Act. "Act" means Laws of Minnesota 1980, chapter  
12 547, as now in effect and as amended from time to time.

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

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

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

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

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

28 8300.0300 REGULAR MEETINGS.

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

35 8300.0400 SPECIAL MEETINGS.

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

11 8300.0500 PUBLIC APPEARANCES AT MEETINGS OF MEMBERS.

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

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

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

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

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

34 8300.0600 MISREPRESENTATION OF APPLICATION INFORMATION.

35 Subpart 1. Affirmative duty. An applicant or financial

1 institution has an affirmative duty and obligation to update and  
2 correct all information provided to the authority.

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

7 1- A. reject an application whether or not previously  
8 approved;

9 2- B. refuse to provide financial assistance;

10 3- C. make financial assistance provided by it  
11 immediately due and payable; or

12 4- D. revoke any preliminary or final resolution  
13 prior to the provision of financial assistance or prior to the  
14 sale of the bonds approved by it.

15

16 POLLUTION CONTROL FINANCIAL ASSISTANCE

17 8300.1000 UNIFORM POLLUTION CONTROL FINANCIAL ASSISTANCE

18 APPLICATION FORMS.

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

26 8300.1100 ACCEPTANCE OF POLLUTION CONTROL FINANCIAL ASSISTANCE

27 APPLICATIONS.

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

31 A. the probable eligibility of the pollution control  
32 financial assistance for a federal guarantee;

33 B. the nature of the pollution control facilities to  
34 be financed with the financial assistance;

35 C. the location of the proposed facilities;

1 D. the availability of bonding authority under the  
2 act; and

3 E. the extent to which the financial assistance will  
4 assist and encourage the establishment, maintenance, and growth  
5 of small business in Minnesota and reduce to a manageable level  
6 the cost of the control of pollution and disposal of waste  
7 resulting from the operations of small business.

8 8300.1200 AUTHORIZATION OF POLLUTION CONTROL FINANCIAL  
9 ASSISTANCE.

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

24

25 BUSINESS FINANCIAL ASSISTANCE

26 8300.1500 OVERVIEW OF PROCEDURE FOR APPROVAL OF BUSINESS  
27 FINANCIAL ASSISTANCE.

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

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

1 for processing are set out in parts 8300.1600 to 8300.1900.

2 Subp. 3. Agency's duties. Upon the determination by the  
3 commissioner that the business financial assistance requested  
4 meets the eligibility requirements of parts 8300.1600 to  
5 8300.1900, the authority shall determine under parts 8300.2100  
6 and 8300.2200 if the authority intends to fund the requested  
7 business financial assistance subject to final authorization by  
8 the authority.

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

22 8300.1600 APPLICATION PROCEDURES.

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

26 Subp. 2. Incomplete applications. Application is deemed  
27 to have been made when the authority receives a completed  
28 application with all required documentation and exhibits,  
29 together with the required fee specified in the application  
30 forms. If an incomplete application is received, the  
31 commissioner shall notify the applicant specifying the  
32 deficiencies. The applicant has 60 days from the date of the  
33 commissioner's notification to complete the application. If the  
34 application is not completed within 60 days, the application is  
35 deemed to be rejected and the applicant shall reapply to be  
36 further considered. If the commissioner is able to determine

1 from the information submitted on an incomplete application that  
2 the applicant is not an owner or the proceeds of the requested  
3 business financial assistance are intended to finance  
4 expenditures not permitted under the act, the commissioner shall  
5 reject the application and so notify the applicant.

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

12 8300.1700 EXPENDITURES ELIGIBLE FOR FINANCIAL ASSISTANCE.

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

- 15 A. land and/or building acquisition costs;
- 16 B. site preparation;
- 17 C. construction costs;
- 18 D. engineering costs;
- 19 E. equipment and/or machinery;
- 20 F. bond issuance costs;
- 21 G. underwriting or placement fees;
- 22 H. trustee's fee;
- 23 I. fees of guarantor, fees or insurance contracts,  
24 letters of credit, municipal bond insurance, and surety bonds;
- 25 J. Small Business Administration processing and  
26 administration fee, if applicable;
- 27 K. authority fee and administrative costs and  
28 expenses;
- 29 L. certain contingency costs;
- 30 M. interest costs during construction;
- 31 N. legal fees, including those of authority's bond  
32 counsel; and
- 33 O. short-term costs of conducting an eligible small  
34 business.

35 8300.1800 NOTIFICATION OF APPROVAL OR DISAPPROVAL OF APPLICATION.

1 After approving or disapproving an application, the  
2 commissioner shall notify the applicant of the determination and  
3 the treatment of the application as follows:

4 A. If the commissioner determines that the applicant  
5 is an owner as defined in the act and that the costs specified  
6 in the application are eligible, the application is then deemed  
7 accepted for processing and treated in accordance with the  
8 authority review provisions established in parts 8300.2100 and  
9 8300.2200.

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

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

24 8300.1900 REVIEW OF REJECTED APPLICATION.

25 If an application is rejected for processing under part  
26 8300.1800, item B or C, the applicant may, within 30 days after  
27 date of the notification by the commissioner, request the  
28 commissioner to submit the rejected application to the authority  
29 for review at the next regularly scheduled meeting of the  
30 authority for which the agenda has not been established. If the  
31 authority approves the application, the application must be  
32 treated in accordance with parts 8300.2100 and 8300.2200.

33 8300.2000 UNIFORM BUSINESS FINANCIAL ASSISTANCE APPLICATION  
34 FORMS.

35 The commissioner shall prepare uniform financial assistance

1 application forms for use by the public setting forth the  
2 information necessary for the determination of eligibility for  
3 business financial assistance under the act and this chapter.

4 8300.2100 EVALUATION PROCEDURE.

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

29 8300.2200 FACTORS TO CONSIDER IN EVALUATION PROCEDURE.

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

33 A. that the applicant is an owner as defined in the  
34 act;

35 B. that the small business reasonably can be expected



1 to maintain a sound financial condition and to retire the  
2 principal and pay the interest on the financial assistance made  
3 or guaranteed in accordance with the terms of the financial  
4 assistance agreement;

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

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

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

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

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

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

28

29 REPEALER. Parts 8300.0200 and 8300.0700 are repealed.