

1 Department of Health

2

3 Adopted Rules Relating to Health Care Equipment Loan Program

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5 Rules as Adopted

6 4647.0100 DEFINITIONS.

7 Subpart 1. **Scope.** For the purposes of parts 4647.0100 to
8 4647.0400, the following terms have the meanings given to them.

9 Subp. 2. **Applicant.** "Applicant" means a hospital as
10 defined in subpart 12.

11 Subp. 3. **Approvable application.** "Approvable application"
12 means an application for health care equipment loan program
13 funds that meets the criteria listed in Minnesota Statutes,
14 section 116M.07, subdivision 7c, as implemented by parts
15 4647.0100 to 4647.0400. An application may contain more than
16 one project and, within an application, a project may be
17 approvable or nonapprovable.

18 Subp. 4. **Approved application.** "Approved application"
19 means an approvable application, or a project within an
20 application, for which there are sufficient funds available in
21 the review period.

22 Subp. 5. **Authority.** "Authority" means the Minnesota
23 Energy and Economic Development Authority.

24 Subp. 6. **Commissioner.** "Commissioner" means the
25 commissioner of the Minnesota Department of Health.

26 Subp. 7. **Cost of project.** "Cost of project" means the
27 costs associated with the acquisition and installation of all
28 functionally related eligible equipment, and all associated
29 costs, including application preparation costs paid to third
30 parties; bond issuance costs; underwriting costs; placement
31 fees; trustee fees; bond insurance; fee of guarantor, insurer,
32 or financial institution, other than the authority, which
33 provides letters of credit; surety bonds or equivalent security;
34 authority fees, including application fees as defined in part
35 8300.3201, subpart 2; interest costs during construction; legal

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1 fees, including those of the authority's bond counsel; and debt
2 service reserve fund.

3 Subp. 8. **Eligible equipment.** "Eligible equipment" means
4 depreciable assets used to provide essential health care
5 services, including machinery, tangible personal property,
6 fixtures, and all construction, renovation, or remodeling to
7 buildings or other real property necessary for the installation,
8 use, or operation of the machinery, property, or fixtures.

9 Subp. 9. **Essential health care service.** "Essential health
10 care service" means a service delivered directly to hospital
11 patients in the course of obstetrical and/or neonatal care, or
12 diagnosis, treatment, or prevention of illness, medical
13 condition or disease, or a service necessary for the efficient
14 delivery thereof. Essential health care services does not
15 include experimental health care services as defined for
16 purposes of federal reimbursement of hospitals under title 18 of
17 the Social Security Act.

18 Subp. 10. **Funds.** "Funds" means proceeds from the sale of
19 bonds or notes issued pursuant to Minnesota Statutes, section
20 116M.07, subdivision 7b, and funds that are available for loan
21 during a review period.

22 Subp. 11. **HELP.** "HELP" means the Health Care Equipment
23 Loan Program as established by Minnesota Statutes, section
24 116M.07, subdivisions 7a to 7c, and parts 4647.0100 to 4647.0400.

25 Subp. 12. **Hospital.** "Hospital" means an institution as
26 defined by Minnesota Statutes, section 144.50, subdivision 2,
27 and one that is certified to participate in the federal Medicare
28 program in accordance with the provisions of section 1861(e) of
29 the Social Security Act, as amended.

30 Subp. 13. **Nonapprovable application.** "Nonapprovable
31 application" means an application that lacks additional
32 information requested under part 4647.0200, subpart 4, or an
33 application that does not meet the criteria listed in part
34 4647.0200, subpart 3.

35 Subp. 14. **Project.** "Project" means all functionally
36 related eligible equipment.

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1 Subp. 15. **Review period.** "Review period" means the period
2 beginning with the most recent application deadline provided in
3 part 8300.3204, subpart 1, and ending with the transmittal of
4 the notice of approved applications to the commissioner of
5 energy and economic development, which period of time shall be
6 ten weeks.

7 Subp. 16. **Suitable financing.** "Suitable financing" means
8 financing at a comparable or lesser total cost, in the same or
9 approximately the same dollar amount, with the same or
10 comparable maturity and with comparable or more favorable
11 conditions.

12 4647.0200 REVIEW OF APPLICATIONS.

13 Subpart 1. **Review of applications by commissioner of**
14 **health.** All applications for HELP loans received from the
15 commissioner of energy and economic development shall be
16 reviewed by the commissioner of health to determine whether they
17 meet the criteria provided in subpart 3.

18 Subp. 2. **Time frame for commissioner's review.** The
19 commissioner has five weeks from the beginning of the review
20 period in which to request additional information from
21 applicants who have submitted applications. An applicant must
22 submit additional information, if required, within seven weeks
23 of the beginning of the review period for the application to be
24 further considered by the commissioner during the review
25 period. Within nine weeks of the beginning of the review
26 period, the commissioner shall conclude review of applications
27 under consideration in that review period, determine approvable
28 applications, and determine if funds available for the review
29 period are sufficient.

30 If the allocation is insufficient to fund all approvable
31 applications, the commissioner shall rank approvable
32 applications, and determine approved applications in the manner
33 provided in part 4647.0300, subpart 2.

34 Within ten weeks of the beginning of the review period, the
35 commissioner shall notify the commissioner of energy and

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1 economic development of approved applications.

2 Applications received by the commissioner after the
3 application deadline for a review period which can reasonably be
4 reviewed for approvability by the commissioner shall be placed
5 in category C, as described in part 4647.0300, subpart 2, item
6 C, if the applications are determined to be approvable
7 applications. Applications that cannot reasonably be reviewed
8 in the review period shall be retained and reviewed in the
9 subsequent review period.

10 Subp. 3. Commissioner's review criteria. The applicant
11 shall provide documentation with the application, demonstrating
12 satisfaction of the following criteria:

13 A. That the facility is a hospital licensed by the
14 Minnesota Department of Health under Minnesota Statutes,
15 sections 144.50 to 144.58, and is owned and operated by a
16 county, district, municipality, or a nonprofit corporation. The
17 applicant shall include its hospital license number on its
18 application and indicate the number of licensed hospital beds.

19 B. That the loan will not be used to refinance
20 existing debt:

21 (1) The applicant shall certify that the HELP
22 loan will not be so used.

23 (2) A loan to the hospital for cash outlays made
24 by the hospital for eligible equipment purchased, ordered, or
25 installed after the effective date of parts 4647.0100 to
26 4647.0400 shall be allowed, provided that the hospital applies
27 to the authority, or to the private insurer which issues the
28 letter of credit or bond insurance for the authority's bonds,
29 within 90 days of the earlier of the date of purchase, order, or
30 installation of the eligible equipment. The applicant must
31 provide evidence of the date of purchase, order, or installation
32 of the eligible equipment.

33 C. That the hospital was unable to obtain suitable
34 financing from other sources. The applicant shall certify that
35 it was unable to obtain suitable financing from other sources.

36 D. That the loan is necessary to establish or

1 maintain patient access to an essential health care service that
2 would not otherwise be available within a reasonable distance
3 from the hospital. To address this criterion, the applicant
4 shall include in brief narrative form the following information
5 for each project in the loan application:

6 (1) a description of the equipment being replaced
7 or new equipment being purchased and a description of associated
8 construction or renovation;

9 (2) a statement of whether and how the project
10 relates to current services, including data about the use of the
11 services affected by the project;

12 (3) a description and geographic identification
13 of the hospital's service area in terms of standard political
14 subdivisions; and

15 (4) a description of the need for the project,
16 including anticipated patient need and use and a description of
17 how the project is related to the provision of an essential
18 health care service. The applicant shall also include an
19 explanation of how the project relates to the most recent state
20 health plan and the most recent health systems agency plan for
21 the hospital's health service area, developed pursuant to Public
22 Law Number 92-641.

23 E. That the project to be financed by the loan is
24 cost-effective and efficient. To demonstrate satisfaction of
25 this requirement, the applicant shall, in brief narrative form,
26 address the following subjects for each project in the loan
27 application;

28 (1) How the expected benefits to the patients to
29 be served by the project and to the hospital justify the costs
30 of the project. These benefits shall be discussed by the
31 applicant in terms of the number of patients, the time of use,
32 and the time and dollars saved. In estimating costs, the
33 applicant shall include the costs of the project, operating
34 costs, and any anticipated increases or decreases in patient
35 charges.

36 (2) The availability and adequacy of other

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1 alternatives or substitutes for all or any part of the project,
 2 including an evaluation of their costs and benefits or
 3 effectiveness as compared to the project. The applicant shall
 4 include a description of the costs associated with continuing to
 5 provide patient services without the project.

6 (3) If there are other hospitals in the service
 7 area, a description of the anticipated effect the proposed
 8 project will have on existing facilities and services. The
 9 applicant shall also include an explanation of how the project
 10 relates to the most recent state health plan and the most recent
 11 health systems agency plan for the hospital's health service
 12 area, developed pursuant to Public Law Number 92-641.

13 Subp. 4. **Additional information.** To make a determination
 14 whether the application is an approvable application, the
 15 commissioner may request the submission of additional
 16 information relating to subpart 3. The commissioner shall delay
 17 approval of an application for failure of the applicant to
 18 timely submit requested information. Additional information
 19 requested by the commissioner must be received by 4:30 p.m. on
 20 Friday of the seventh week following the beginning of the review
 21 period in which the application is being reviewed. Applications
 22 for which additional information was requested and not received
 23 by this deadline shall be retained for consideration in the next
 24 review period or returned to the applicant, as the applicant
 25 directs. Applications returned to the applicant may be
 26 resubmitted.

27 4647.0300 DETERMINATION OF APPROVED APPLICATIONS.

28 Subpart 1. **Determination upon sufficient funding.** The
 29 commissioner shall determine whether the funds available for the
 30 review period are sufficient to fund all approvable applications
 31 for that review period. If the funds are sufficient, the
 32 commissioner shall approve all approvable applications.

33 Subp. 2. **Determination upon insufficient funding.** If the
 34 commissioner determines that the total amount of funds requested
 35 in approvable applications during that review period exceed the

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1 amount of funds available, approvable applications shall be
2 categorized and approved as follows:

3 A. All approvable applications, except for approvable
4 applications carried over from a previous review period, shall
5 be placed in category A unless, if within the two years prior to
6 the applicable review period application deadline, the applicant
7 has received the proceeds of debt, the interest thereon which
8 was exempt from federal taxation, which was used for the
9 purchase of hospital or health-care equipment, in which case the
10 applications of such applicants shall be placed in category B.

11 B. In category A, approvable applications will be
12 approved in reverse order of their ranking by hospital size, as
13 determined by number of licensed beds, excluding infant
14 bassinets, of the hospital submitting the application.

15 C. If the funds available for the review period are
16 insufficient to fund all the approvable applications in category
17 A, the commissioner may approve, with the consent of the
18 applicant, projects within approvable applications so as to
19 distribute all available funds. The commissioner will not
20 approve parts of projects. The applicant shall determine those
21 approvable projects within an approvable application to which
22 available funds shall be applied. Projects within an approvable
23 application not approved in the review period, and other
24 approvable applications not approved in that period, shall be
25 carried over to the next review period.

26 D. After all approvable applications in category A
27 have been approved, remaining funds shall be applied to category
28 B. Applications in category B will be approved in the same
29 order of priority applied to approvable applications in category
30 A. Category B applications not approved in the review period
31 shall be carried over to the next review period.

32 E. After all approvable applications in category B
33 have been approved, remaining funds shall be applied to category
34 C. Applications in category C will be funded in the same order
35 of priority applied to approvable applications in category A.
36 Category C applications not approved in the review period shall

1 be carried over to the next review period.

2 F. At the beginning of a review period, the
3 commissioner shall consider all approvable applications carried
4 over from previous review periods. Approvable applications
5 containing projects not approved because of insufficient funds
6 in the previous review period shall be placed in the same
7 category in the subsequent review period and approved in the
8 manner provided in item B or D. All other approvable
9 applications shall be placed in either category A or category B
10 according to the procedure provided in item A.

11 4647.0400 NOTICE.

12 The commissioner shall notify applicants by mail if their
13 applications are not approvable or not approved during the
14 review period for which they applied for HELP funds.