

1 Department of Public Service

2

3 Adopted Permanent Rules Relating to Institutional Energy Loan

4 Program (IELP)

5

6 Rules as Adopted

7 7605.0010 PURPOSE OF INSTITUTIONAL ENERGY LOAN PROGRAM.

8 The purpose of this chapter is to establish the application
9 procedures by institutions and set criteria for review and
10 recommendation of loan applications.

11 7605.0020 DEFINITIONS.

12 Subpart 1. **Scope.** For the purposes of this chapter, the
13 following terms have the meanings given them.

14 Subp. 2. **Applicant.** "Applicant" means a public or private
15 nonprofit institution, as defined in this part that is making
16 application for funds under this program.

17 Subp. 3. **Building.** "Building" means any existing,
18 separate structure owned and operated by a public or private
19 nonprofit institution as defined in this part.

20 Subp. 4. **Commissioner.** "Commissioner" means the
21 commissioner of the Department of Public Service.

22 Subp. 5. **Conservation measure.** "Conservation measure"
23 means an installation or modification of an installation to a
24 building or stationary energy using system outside of a
25 building, that is primarily intended to reduce energy
26 consumption or allow the use of an alternative energy source
27 including solar, wind, peat, wood, and agricultural residue.

28 Subp. 6. **Financial institution.** "Financial institution"
29 means a bank, bank or trust company, trust company, mortgage
30 company, credit union, mortgage banker, national banking
31 association, savings bank, savings association, savings and loan
32 association, building and loan association, insurance company,
33 securities broker-dealer, financial organizations relating to
34 commercial credit or venture capital, or a lender certified by
35 the secretary of housing and urban development or by the

1 administrator of veterans affairs, or approved or certified by
2 the administrator of the Farmers Home Administration or any
3 other financial or lending institution, whether organized under
4 federal law or the laws of any state of the United States, and
5 whether located within or without this state.

6 Subp. 7. Hospital. "Hospital" means a public or private
7 nonprofit facility licensed under Minnesota Statutes, section
8 144.50, ~~subdivision 27-which-is-primarily-engaged-in-providing~~
9 ~~to-inpatients-by-or-under-the-supervision-of-physicians:~~

10 ~~A.--diagnostic-services-and-therapeutic-services-for~~
11 ~~medical-diagnosis,-treatment,-and-care-of-injured,-disabled,-or~~
12 ~~sick-persons,-or~~

13 ~~B.--rehabilitation-services-for-the-rehabilitation-of~~
14 ~~injured,-disabled,-or-sick-persons.~~

15 Subp. 8. Lender. "Lender" means the Minnesota Department
16 of Finance, a private or community foundation, or a financial
17 institution as defined in this part which issues a loan to an
18 applicant to implement energy conservation measures.

19 Subp. 9. Nursing home. "Nursing home" means a public or
20 private nonprofit facility or that part of a facility licensed
21 under Minnesota Statutes, section 144A.01, subdivision 5, which
22 provides nursing care to five or more persons.

23 Subp. 10. Payback. "Payback" means the simple payback
24 that is equal to the sum of the design, acquisition, and
25 installation costs of a conservation measure divided by the
26 estimated first year energy cost savings attributable to that
27 measure.

28 Subp. 11. Private nonprofit institution. "Private
29 nonprofit institution" means an institution owned and operated
30 by a school, hospital, or nursing home or joint power of these
31 as defined in this part which is also exempt from income tax
32 under section 501(c)(3) or 501(c)(4) of the Internal Revenue
33 Code of 1986.

34 Subp. 12. Project. "Project" means all proposed work in a
35 loan application.

36 Subp. 13. Public institution. "Public institution" means

1 any public school district or hospital, statutory or home rule
2 charter city, county, or town in Minnesota, or a joint power
3 entity consisting of these units.

4 Subp. 14. **School.** "School" means a public or private
5 nonprofit institution:

6 A. that provides, and is legally authorized to
7 provide, elementary education or secondary education or both on
8 a day or residential basis;

9 B. that:

10 (1) provides, and is legally authorized to
11 provide, a program of education beyond secondary education on a
12 day or residential basis;

13 (2) admits as students only persons having a
14 certificate of graduation from a school providing secondary
15 education, or the recognized equivalent of such certificate;

16 (3) is accredited by a nationally recognized
17 accrediting agency or association; and

18 (4) provides an educational program for which it
19 awards a bachelor's degree or higher degree or provides not less
20 than a two-year program which is acceptable for full credit
21 toward such a degree at any institution which meets the
22 preceding requirements and which provides such a program; or

23 C. that provides not less than a one-year program of
24 training to prepare students for gainful employment in a
25 recognized occupation and which meets the provisions in item B,
26 subitems (1) to (3).

27 7605.0030 LOAN ELIGIBILITY CRITERIA.

28 Subpart 1. **In general.** The commissioner shall approve
29 IELP applications from applicants in compliance with this
30 chapter for conservation measures that have a payback of ten
31 years or less.

32 Subp. 2. **Eligibility.** Funds are available to applicants
33 to finance:

34 A. projects which have not previously received funds
35 under this program;

1 B. an amendment to an existing loan, to fund cost
2 overruns for projects in progress, or previously unidentified
3 but related work which is necessary for successful
4 implementation of the previously approved project, provided the
5 projects as amended continue to meet the requirements of this
6 chapter.

7 Subp. 3. **Prior approval required.** Except for the
8 amendments in subpart 2, projects for which acquisition or
9 installation have been contracted for or begun before approval
10 by the commissioner are ineligible. This prior approval
11 requirement does not apply to design activities.

12 Subp. 4. **Useful life.** Funds may not be awarded to
13 buildings or energy using systems with a remaining useful life
14 less than or equal to the payback of the conservation measure
15 proposed. Funds may not be awarded for a conservation measure
16 if the payback of the conservation measure proposed is greater
17 than or equal to the useful life of the measure.

18 Subp. 5. **New construction.** Only projects for existing
19 buildings and energy using systems are eligible. New
20 construction is only eligible if it is necessary for successful
21 implementation of a conservation measure for an existing
22 building or stationary energy using system.

23 **7605.0040 LOAN LIMITS.**

24 Funds issued under this program will be used to participate
25 in loans originating from a lender up to a maximum of 50 percent
26 of the loan principal or \$200,000, whichever is less. While
27 more than one loan may be issued to an applicant, the sum of
28 funds issued from this program may not exceed \$200,000.

29 **7605.0050 APPLICATION CONTENTS.**

30 Subpart 1. **In general.** An applicant shall submit a
31 complete application to the commissioner on forms provided by
32 the commissioner. An application must be signed in ink by an
33 authorized official of the applicant, must include the
34 authorized official's title, and must be dated.

35 Subp. 2. **Contents.** An application must contain, at a

1 minimum:

2 A. the name and complete mailing address, including
3 county, of the applicant;

4 B. a contact person's name, title, and telephone
5 number;

6 C. a list of buildings or stationary energy using
7 systems included in the application and the dollar amount
8 requested per building or stationary energy using system;

9 D. the name and address, total floor area in square
10 footage, or number of units in a stationary energy using system;

11 E. the original construction date and addition
12 construction dates of the building;

13 F. the age of a stationary energy using system; and

14 G. the state legislative district affected by the
15 application.

16 An application must also contain a summary description of
17 each proposed conservation measure, including its estimated
18 cost, loan amount requested, estimated annual energy cost
19 savings, estimated annual fuel and electric savings, estimated
20 payback, and the estimated dates the conservation measure will
21 be started and completed.

22 Subp. 3. **Technical support materials.** All applications
23 for IELP funds must contain fuel and electric consumption data
24 for the most recent completed period July 1 to June 30, for each
25 building or stationary energy using system in the application.
26 Applications must also contain a description of the current
27 condition of the building, the building component, equipment or
28 stationary energy using system to be improved, and the proposed
29 conservation measure. Sufficient engineering analysis to
30 determine technical feasibility and project payback must be
31 included. All conservation measures must be analyzed using the
32 energy conservation development sheet format available from the
33 commissioner.

34 Applications for matching loans of \$25,000 or more shall
35 have the analysis for projects conducted by a Minnesota
36 registered mechanical engineer, electrical engineer, or

1 architect. Applications must include an Engineering Analysis
2 Report Summary or a Maxi-Audit Report Form available from the
3 commissioner.

4 Subp. 4. **Assurances.** An applicant must also submit
5 assurances that:

6 A. it has provided for the proper and efficient
7 operation and maintenance of the proposed conservation measures;

8 B. the work performed with loan funds will meet all
9 Minnesota building code requirements;

10 C. it has provided funds to pay any portion of the
11 project cost not eligible for program funds specifically
12 identifying the source of those funds;

13 D. it has met requirements for voter approval, if
14 applicable; and

15 E. it is able to accept and repay the proposed
16 program funds without exceeding applicable debt and levy limits.

17 Subp. 5. **Incomplete applications.** If an incomplete
18 application is received, the commissioner shall notify the
19 applicant of specific deficiencies in the application. The
20 applicant has 30 days from the date of the commissioner's
21 notification to complete the application. If the application is
22 not completed and received by the commissioner within 30 days,
23 the application is considered withdrawn. To be further
24 considered, the applicant must reapply.

25 7605.0060 LENDER.

26 In order to be eligible to receive funds under this
27 program, a participating lender's agreement provided by the
28 commissioner must be signed by an authorized officer of the
29 lender. The agreement shall set the terms and conditions under
30 which a loan is to be made and specify procedures to be followed
31 in the event of default by the applicant. The agreement must
32 require the lender and the commissioner to conform to the
33 following conditions:

34 A. The lender will enter into a loan agreement with
35 the applicant. The loan agreement will include the following:

1 (1) an agreement that the commissioner may review
2 upon request all financial data of the applicant and may inspect
3 any and all buildings, equipment, and stationary energy using
4 systems associated with a loan; and

5 (2) an irrevocable resolution of the applicant's
6 governing body guaranteeing that it will use all loan funds
7 solely for the eligible costs of the proposed project; it will
8 repay the loan according to the terms of the loan; and it will
9 annually levy or otherwise collect funds to meet the annual
10 repayment costs of the loan.

11 B. The lender shall make no provision to subordinate
12 any loan collateral to other liens against such property without
13 prior written approval from the commissioner.

14 C. The lender shall not acquire any preferential
15 collateral, surety, or insurance to protect its interest in a
16 loan.

17 D. All collateral must be prorated between the lender
18 and the commissioner.

19 E. The lender shall require the applicant to
20 adequately insure, maintain, and repair all collateral.

21 F. The lender shall review and approve qualified
22 energy projects in accordance with generally accepted commercial
23 lending practices.

24 G. The lender is responsible for servicing all loans
25 it makes for conservation measures either directly or by
26 contracting with a servicing agent.

27 H. The lender shall not sell or transfer any loan
28 without prior written approval from the commissioner.

29 I. The lender, for the term of the entire loan, shall
30 promptly notify the commissioner of any loan payments that are
31 two weeks overdue. The lender shall provide the commissioner
32 with any and all past due notices at the same time they are sent
33 to the applicant. In addition, the lender must submit an annual
34 loan performance report to the commissioner on a form provided
35 by the commissioner.

36 J. The commissioner shall not participate in any loan

1 that either carries an interest rate in excess of three points
2 above the lender's prime rate or base rate for variable or fixed
3 rate loans.

4 K. The lender agrees not to make any amendments to
5 the loan agreement after loan closing without prior written
6 approval of the commissioner.

7 L. The lender agrees to make no waivers of default
8 without prior written approval from the commissioner.

9 M. The department shall not participate in loans made
10 by a lender before the execution of the participating lender's
11 agreement.

12 N. The commissioner may review upon request all
13 financial data associated with the execution and servicing of a
14 loan made by the lender.

15 O. Any and all payments received by the lender shall
16 first be credited to interest due on a pro rata basis and then
17 be credited to the principal balance due, on a pro rata basis.

18 7605.0070 APPLICATION REVIEW.

19 Subpart 1. **Administrative review.** The commissioner shall
20 examine the loan application to verify that the applicant is
21 eligible, that the required forms are included and correctly
22 completed, that the required assurances and irrevocable
23 resolution are included, and that the application is properly
24 signed and dated.

25 Subp. 2. **Technical review.** The commissioner shall examine
26 the technical support materials included in the application to
27 verify that the proposed conservation measures are analyzed with
28 adequate details of existing conditions and proposed
29 modifications or additions, that appropriate calculation
30 procedures are used, that the proposed conservation measures are
31 eligible, and that the proposed conservation measures are
32 technically feasible and meet requirements of this chapter.

33 Subp. 3. **Rejection and resubmission.** The commissioner may
34 accept, reject, or modify a loan application as necessary based
35 on the application review. The commissioner shall notify an

1 applicant of cause for modification or rejection of an
2 application and the options available to correct those problems
3 for resubmission of the application. If some of the
4 conservation measures in an application are accepted as
5 submitted, the applicant may choose to accept a loan for those
6 measures.

7 7605.0080 REPORTS AND MONITORING.

8 Subpart 1. **In general.** An applicant that receives IELP
9 funds shall submit the reports listed in subparts 2 to 5.

10 Subp. 2. **Annual project status report.** The applicant
11 shall submit to the commissioner on forms provided by the
12 commissioner an annual project status report covering the period
13 July 1 through June 30. This report is due each July 31 until
14 the project is completed.

15 The project status report must indicate the progress of the
16 implementation of the project, problems encountered, the effect
17 of the problems on the project, and the corrective action
18 taken. If at any time the applicant fails to substantially
19 comply with the start and end dates given in the loan
20 application as approved, and if the applicant cannot reasonably
21 justify to the commissioner its lack of progress, the entire
22 loan amount may become due and payable at the discretion of the
23 commissioner.

24 Subp. 3. **Semiannual financial report.** The applicant shall
25 submit to the commissioner on forms provided by the
26 commissioner, a semiannual financial status report that
27 indicates expenditures of loan funds through the last date of
28 each report period. This report is due on July 31 for the
29 period January 1 to June 30, and January 31 for the period July
30 1 to December 31 until the project is completed.

31 Subp. 4. **Final report.** Within 60 days of the completion
32 of the project, the applicant shall submit to the commissioner,
33 on forms provided by the commissioner, a final project status
34 report and a financial status report that gives actual
35 expenditures of the conservation measures implemented.

1 Subp. 5. **Annual energy report.** The applicant shall submit
2 to the commissioner, on forms provided by the commissioner, an
3 annual fuel and electric consumption report due each October 31
4 for the duration of the loan contract period, or for a minimum
5 of three years after project completion if the loan is paid in
6 less than three years, unless the commissioner cancels this
7 requirement before the end of the loan contract period.