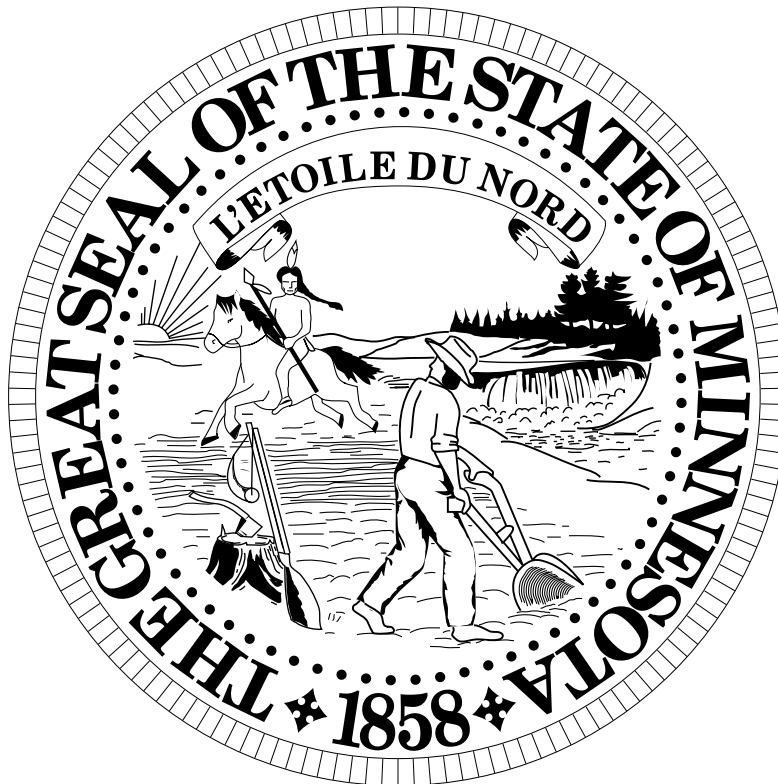


State of Minnesota

State Register

Rules and Official Notices Edition



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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

- proposed, adopted, exempt, expedited emergency and withdrawn rules
- executive orders of the governor
- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
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Vol. 26 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
#27	Monday 24 December	Noon Wednesday 12 December	Noon Tuesday 18 December
#28	Monday 31 December	Noon Wednesday 19 December	NOON FRIDAY 21 DECEMBER
#29	Monday 7 January 2002	Noon Wednesday 26 December	NOON FRIDAY 28 DECEMBER
#30	Monday 14 January	Noon Wednesday 2 January 2002	Noon Tuesday 8 January 2002

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Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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Proposed Rules

Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Board of Animal Health

Proposed Permanent Rules Relating to Anthrax Vaccine Prescriptions

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Amendment to Rules Governing Sale and Distribution of Biological Products and Antigens, *Minnesota Rules*, 1720.0580 - 1720.0640

Introduction. The Board of Animal Health intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until January 23, 2002.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Dr. Keith Friendshuh, Minnesota Board of Animal Health, 90 W. Plato Blvd., Suite 119, St. Paul, MN 55107 (651) 296-2942, ext. 18, **Fax:** (651) 296-7417, and **email:** keith.friendshuh@bah.state.mn.us. **TTY** users may call the Board of Animal Health at 1-800-627-3529.

Subject of Rules and Statutory Authority. The proposed rules concern the sale of Anthrax Vaccine to farmers with a prescription from a veterinarian. The statutory authority to adopt the rules is *Minnesota Statutes*, section 35.03. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Wednesday, January 23, 2002, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on January 23, 2002. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

William L. Hartmann, DVM, MS
Executive Officer

1720.0600 PRESCRIPTIONS.

Prescriptions shall not be written by veterinarians for Brucella abortus vaccine, ~~anthrax vaccine~~, modified live rabies vaccine, antigens, and all other biological products used in the detection and diagnosis of communicable, infectious diseases of livestock, or other biological products that may be determined by the board to be too dangerous for lay use.

Minnesota Housing Finance Agency

Proposed Permanent Rules Governing Challenge Housing Grants

DUAL NOTICE: NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING UNLESS 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF HEARING IF 25 OR MORE REQUESTS FOR HEARING ARE RECEIVED

Proposed Rules Governing the Economic Development and Housing Challenge Program, *Minnesota Rules*, parts 4900.3600 to 4900.3652

Introduction. The Minnesota Housing Finance Agency intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, section 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on January 23, 2002, a public hearing will be held at the following location:

Minnesota Housing Finance Agency
State Street Conference Room (First Floor)
400 Sibley Street
St. Paul, MN, 55101-1998

The hearing will begin at 9:00 a.m. on Thursday, February 14, 2002. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after January 23, 2002 and before February 14, 2002.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is:

Gina Green
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, MN, 55101-1998
Phone: (651) 296-8147
Fax: (651) 296-8139
Email: Gina.Green@state.mn.us
TTY users may call the Agency at (651) 297-2361

Subject of Rules, and Statutory Authority. The agency proposes to adopt rules to implement the Economic Development and Housing Challenge Program (the Challenge Program). The Economic Development and Housing Challenge Program was created in 1999 pursuant to *Minnesota Statutes*, section 462A.33, and was funded on a one-time basis. The Challenge Program leverages state resources for housing development by requiring participation from area employers, and local governments or charitable organizations. During the 2001 Special Session, amendments were made to *Minnesota Statutes*, section 462A.33, that made the Challenge Program part of the agency's base budget and consolidated the following additional existing agency programs:

- Affordable Rental Investment Fund Program,
- Community Rehabilitation Fund,
- Employer Matching Grant Program, and
- Minnesota Urban and Rural Homesteading Program

The proposed rules implement the Challenge Program as it has been changed by the 2001 amendments.

A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Statutory Authority. *Minnesota Statutes*, section 462A.06, subdivision 11, authorizes the Agency to adopt rules *respecting its mortgage lending, construction lending, rehabilitation lending, grants, and temporary lending, and any such other rules as are necessary to effectuate its corporate purpose.* See also, *Minnesota Laws 2001*, First Special Session, chapter 4, article 4, section 13.

Comments. You have until 4:30 on January 23, 2002 to submit written comment in support of, or in opposition to, the proposed rules or any part or subpart of the rules. Your comments must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Requests for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on January 23, 2002. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing, and the adopted rules may not be substantially different than the proposed rules unless the procedure under part 1400.2110 has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for February 14, 2002, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at 651-296-8147 after January 23, 2002, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Barbara Neilson is assigned to conduct the hearing. Judge Neilson can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **phone:** (612) 341-7604, and **fax:** (612) 349-2665.

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable costs of the proposed rules. The statement may also be reviewed and copies obtained at the cost of reproduction from the agency.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, **phone:** (651) 296-5148 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and files them with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Katherine G. Hadley
Commissioner

CHALLENGE PROGRAM

4900.3600 SCOPE.

Parts 4900.3600 to 4900.3650 govern the implementation of the economic development and housing challenge program authorized by *Minnesota Statutes*, section 462A.33.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

4900.3610 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 4900.3600 to 4900.3650 have the meanings given them in this part.

Subp. 2. Affordable to the local work force. “Affordable to the local work force” means that the amount of rent or housing payments made by the occupants of housing funded under the challenge program is affordable based on the wages of the jobs being created or retained in the local area, the fastest growing jobs in the local area, the jobs with the most openings in the local area, or the wages of the work force employed by organizations making contributions under the challenge program. Rent or housing payments are affordable if they do not exceed 30 percent of the wages being paid in the local area as the wages are described in the application for challenge program funding.

Subp. 3. Agency. “Agency” means the Minnesota Housing Finance Agency created by *Minnesota Statutes*, chapter 462A.

Subp. 4. Application guide. “Application guide” means the informational materials developed by the agency for the purposes of soliciting applications for and releasing funds under the challenge program.

Subp. 5. Challenge program. “Challenge program” means the economic development and housing challenge program authorized by *Minnesota Statutes*, section 462A.33.

Subp. 6. Continuum of care plan. “Continuum of care plan” means a community plan prescribed by HUD to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency and includes action steps to end homelessness and prevent a return to homelessness.

Subp. 7. Cooperatively developed plan. “Cooperatively developed plan” means a plan that encompasses multiple affordable housing and related service initiatives in a geographically defined area that is developed through the cooperation and input of a city or county, or instrumentality thereof, or a regional unit of government and one or more of the following entities:

- A. a neighborhood group or community group;
- B. housing providers; and
- C. housing funders.

Subp. 8. Deferred loan. “Deferred loan” means a non- or low-interest-bearing loan made without periodic payments and repaid in full at the end of the loan term or upon the occurrence of a specified event.

Subp. 9. Economic vitality and housing initiative group. “Economic vitality and housing initiative group” means a regional advisory group that has been developed according to the agency’s economic vitality and housing initiative created under *Laws 1995*, chapter 255, article 2, section 16, and has submitted a proposal to the agency for a capacity building grant under *Minnesota Statutes*, section 462A.21, subdivision 3b.

Subp. 10. Economic vitality and housing initiative guidelines. “Economic vitality and housing initiative guidelines” means the regional affordable housing investment guidelines developed by an economic vitality and housing initiative group that address the affordable housing needed in connection with economic development and redevelopment efforts in their region.

Subp. 11. Eligible homebuyer. “Eligible homebuyer” means a household that satisfies the income limits provided in *Minnesota Statutes*, section 462A.33, subdivision 5, with respect to homeownership projects.

Subp. 12. Household at risk of becoming homeless. “Household at risk of becoming homeless” means a household that is faced with a situation or set of circumstances that is likely to cause the household to become homeless in the future, including living in substandard housing, living in housing that is inadequate for the size of the household, living in housing with a person who engages in domestic violence, paying more than 50 percent of household income for rent, or having insufficient household resources to pay for current housing and meet other basic needs.

Subp. 13. Interim loan. “Interim loan” means a short-term non- or low-interest-bearing loan made to a successful applicant to assist with acquiring, demolishing, rehabilitating, or constructing owner-occupied housing.

Subp. 14. Local area. “Local area” means the geographic area in Minnesota that the agency uses to determine what constitutes the local work force and to compute average hourly or annual wages.

Subp. 15. Member-adopted plan for affordable housing. “Member-adopted plan for affordable housing” means the affordable housing plan adopted by the members that the agency uses to project the resources that will be available to the agency to invest in housing programs during each biennium and to plan for how the resources are invested.

Subp. 16. Owner-occupied housing. “Owner-occupied housing” means housing that is the principal place of residence for the owner and the owner’s household. Housing that is primarily intended to be used in a trade or business, as an investment property, or as a recreational home is not owner-occupied housing; however, a property that contains rental housing units qualifies as owner-occupied housing so long as the property includes no more than four housing units, at least one of which is occupied by the property’s owner.

Subp. 17. Private developer. “Private developer” means an individual or a for-profit nongovernmental entity, including a cooperative housing corporation as defined in part 4900.0010, subpart 8, and a limited dividend entity as defined in part 4900.0010, subpart 14.

Subp. 18. Public housing agency. “Public housing agency” means any state, county, municipality, or other governmental entity or public body, or agency thereof, that is authorized to engage or assist in the development or operation of low-income housing.

Subp. 19. Rental housing. “Rental housing” means housing with a minimum of four units that is used to provide living accommodations to persons or families on a rental basis. Rental housing does not include owner-occupied housing or a unit in a hotel, motel, inn, or other establishment where units are used on a transient basis.

Subp. 20. Tenant-based rental assistance. “Tenant-based rental assistance” means a rental subsidy provided for an individual household that chooses its own housing unit.

Subp. 21. Underserved populations. “Underserved populations” means individuals and households of color, single female heads of households with minor children, and disabled individuals.

4900.3620 ALLOCATION OF FUNDS.

The agency shall apportion challenge program funds among the permitted uses authorized by *Minnesota Statutes*, section 462A.33, according to the member-adopted plan for affordable housing. The agency shall issue an application guide prior to each round of funding under the challenge program.

4900.3630 TYPES OF FUNDING AVAILABLE.

Funds awarded to successful applicants from the challenge program must take the form of loans or grants as described in parts 4900.3632 and 4900.3634.

4900.3632 RENTAL HOUSING.

Subpart 1. Generally. For rental housing, the agency shall provide challenge program funds in the form of a deferred loan. The agency shall provide challenge program funds in the form of a grant if:

A. the applicant provides documentation confirming that another funding source requires the agency’s funds to be provided in the form of a grant; and

B. the other funding source is providing a greater amount of funding than the agency is providing.

Subp. 2. Loans for rental housing.

A. The agency shall award challenge program loans in the form of a deferred loan unless an amortizing loan is requested by the borrower and deemed financially feasible by the agency. The term of the loan is 30 years from the date of the loan closing; however, the agency may adjust the loan term based on any of the following factors:

(1) requirements and conditions of other funding sources related to loan term;

(2) the existence of a leasehold mortgage on the property benefited by the loan; or

(3) economic analysis by agency staff demonstrating that the housing will not have sufficient value at the end of the loan term to allow the borrower to repay the loan.

B. Challenge program loans bear interest at a rate of zero percent unless a higher interest rate is necessary to allow challenge program funds to be used with other funding sources. Principal and interest, if any, is due and payable at the end of the 30-year term.

Subp. 3. Grants for rental housing.

A. The term of challenge program grants is 30 years from the date of the grant award; however, the agency may adjust the grant term based on requirements and conditions of other funding sources related to the grant term or the existence of a leasehold mortgage on the property benefited by the grant.

B. Challenge program grants must be repaid in full to the agency if the grant recipient does not comply with the conditions of the grant agreement with the agency. Challenge program grants must be forgiven in full at the end of the 30-year term if the grant recipient remains in compliance with the grant agreement throughout the grant term.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

Subp. 4. **Repayment processing fee.** The agency shall charge borrowers a repayment processing fee when a challenge program loan or grant is repaid in full, as provided in the loan or grant agreement between the borrower or grant recipient and the agency. The amount of the processing fee is equal to the approximate administrative costs incurred by the agency in processing the repayment.

Subp. 5. **Sale of housing or assumption of loan.** The agency shall approve the sale of rental housing financed, or the assumption of a loan or grant made, under this part if the entity purchasing the rental housing or assuming the loan meets the agency's current mortgage credit and underwriting standards. The agency shall charge the original borrower or grant recipient an assumption fee in an amount equal to the approximate administrative costs incurred by the agency in processing the sale or assumption, as provided in the loan or grant agreement between the borrower or grant recipient and the agency.

4900.3634 OWNER-OCCUPIED HOUSING.

Subpart 1. **Generally.** To determine whether to award challenge program funds for owner-occupied housing in the form of an interim loan or a deferred loan, the agency shall consider the type of activity for which the applicant seeks funding and the needs described in the application. The agency shall provide funding to a successful applicant in the form of a loan unless the applicant provides documentation satisfying the conditions in subpart 3.

Subp. 2. **Loans for owner-occupied housing.** Challenge program funds provided in the form of a loan may be interim loans or deferred loans.

A. The agency may provide challenge program funds in the form of an interim loan to acquire, rehabilitate, demolish, or construct owner-occupied housing. Interim loans bear interest at a rate of two percent unless the interest rate is economically infeasible and would adversely affect the affordability of the housing for the eligible homebuyers that the applicant is proposing to serve, in which case the interim loan is interest free.

The term of an interim loan is 20 months; however, the agency may adjust the loan term based on requirements and conditions of other funding sources related to the loan term or economic analysis by agency staff of the financial feasibility of the owner-occupied housing. Principal and interest, if any, is due and payable at the end of the 20-month term. Interim loans shall not be transferred to eligible homebuyers.

B. The agency may also provide challenge program funds in the form of an interest-free deferred loan for purposes of interim or permanent financing. A deferred loan is used to help bridge funding gaps not covered by a first mortgage or other sources of funding for owner-occupied housing. A deferred loan must be repaid:

(1) when the owner-occupied housing constructed, acquired, or improved with the proceeds of the deferred loan is sold, transferred, or otherwise conveyed by the eligible homebuyer;

(2) when the eligible homebuyer ceases to use owner-occupied housing constructed, acquired, or improved with the proceeds of the deferred loan as owner-occupied housing; or

(3) on the date that is 30 years from the date of the loan closing; whichever occurs first.

Subp. 3. **Grants.** Challenge program funds may be provided in the form of a grant if the funds will be used to finance:

A. the gap that exists between the sale price of the owner-occupied housing and the construction costs of the housing; or

B. other eligible activities for which repayment is economically infeasible.

Subp. 4. **Loan repayment.**

A. A successful applicant shall repay to the agency all challenge program funds awarded to it in the form of a loan if the successful applicant ceases to use the funds as stated in its application to the agency and in the manner provided in any agreement between the successful applicant and the agency governing the use of the challenge program funds.

B. The successful applicant may retain the proceeds of the challenge program loan and revolve the funds under either of the following two conditions:

(1) Condition one:

(a) the successful applicant uses the challenge program funds for the same purpose for which the agency originally awarded the funds within two years of the original award; and

(b) the location of the owner-occupied housing to be acquired, rehabilitated, or constructed with the funds is identified in the application. The successful applicant's authority to revolve the funds beyond the initial two years may be renewed upon application to and approval by the agency.

(2) Condition two:

(a) the successful applicant uses the challenge program funds to finance the difference between the cost of the owner-occupied housing and the amount that the eligible homebuyers targeted by the successful applicant can afford for housing, based on industry standards and practices; and

(b) the successful applicant uses the challenge program funds for the same purpose for which the originally awarded the funds within two years of repayment of the funds to the successful applicant.

4900.3640 ELIGIBLE APPLICANTS.

To be eligible to apply for funds under the challenge program, an applicant must be:

- A. a nonprofit organization, as defined in *Minnesota Statutes*, section 462A.03, subdivision 22;
- B. a city, as defined in *Minnesota Statutes*, section 462A.03, subdivision 21;
- C. a joint powers board established by two or more cities that owns or will own the housing;
- D. a public housing agency that owns or will own the housing;
- E. an Indian tribe or tribal housing corporation that owns or will own the housing;
- F. a natural person who owns or will own the housing; or
- G. a private developer.

4900.3642 ELIGIBLE APPLICATIONS.

The applicant shall provide an application in the form prescribed by the agency. The application must include:

- A. a description of the applicant's goals and objectives in meeting the area's need for the type of housing proposed;
- B. a detailed description of how the housing will be developed and managed, including a description of the proposed site for the housing and preliminary architectural plans or proposed work scope for the housing when applicable;
- C. the development staff's qualifications and, for rental housing, the management staff's qualifications;
- D. a detailed budget for the development of the housing showing all development costs and the sources of funds to pay for them;
- E. a detailed budget for the operation of the housing showing all anticipated operating costs and the proposed rents and other income;
- F. a detailed description of whether the proposal involves temporary or permanent displacement or relocation of persons living in affected housing. If the proposal involves temporary or permanent displacement or relocation of persons living in affected housing, the applicant shall develop and submit a plan for minimizing relocation and displacement of the affected persons;
- G. specific documentation that allows the agency to evaluate whether the housing is affordable to the local work force, including, but not limited to:
 - (1) for all proposals, a description of the local area and a justification as to why the applicant is defining the local area in terms of a city, county, or region. The justification must include, but not be limited to, an analysis of data related to the local area's economy and work force, typical commuting modes and distances, and transportation options;
 - (2) for all proposals, average hourly or annual wage data from the Minnesota Department of Economic Security or its successor, or another form of documentation acceptable to the agency, related to jobs being created or retained in the local area, the fastest growing jobs in the local area, the jobs with the most openings in the local area, and the wages of the work force employed by organizations making contributions under the challenge program;
 - (3) for proposals that include rental housing, the most recent data related to average or median rent in the local area or fair market rent as determined by HUD for the local area; and
 - (4) for proposals that include owner-occupied housing, the most recent data from the county assessor related to the average or median home sales price in the local area and proposed purchase prices of the housing in the application;
- H. for proposals that include rental housing, a description of the proposed development, management, and operation of any common or commercial space;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

I. for proposals that include owner-occupied housing, a description of the pool of eligible homebuyers that the applicant proposes to serve and a marketing plan to sell the owner-occupied housing to those homebuyers;

J. for proposals that include owner-occupied housing, if the applicant wants to revolve recaptured proceeds and challenge program funds at the local level according to part 4900.3634, subpart 4, item B, documentation to justify the need for the funds to revolve and a plan for reinvestment of the funds for eligible activities; and

K. specific documentation, as requested by the agency, that will allow the agency to evaluate the ability of the proposal to meet the selection standards in part 4900.3648 and the funding priorities in part 4900.3650.

4900.3644 ELIGIBLE USES OF FUNDS.

Subpart 1. Generally. The agency shall award loans or grants under the challenge program for the purposes specified in *Minnesota Statutes*, section 462A.33, subdivision 1.

Subp. 2. Permitted uses. Challenge program funds may be used for the following purposes:

A. acquisition of land or existing structures;

B. construction of housing;

C. rehabilitation of housing;

D. conversion to housing from another use;

E. demolition or removal of existing structures according to *Minnesota Statutes*, section 462A.33, subdivision 1, paragraph (c);

F. provision of interim financing for owner-occupied housing;

G. provision of construction financing for rental housing;

H. provision of permanent financing;

I. reduction of interest rates for owner-occupied housing;

J. refinancing of existing loans; or

K. provision of financing to fill a funding gap, as provided in *Minnesota Statutes*, section 462A.33, subdivision 1, paragraph (a).

4900.3646 HOUSING REQUIREMENTS.

Subpart 1. Requirements for owner-occupied housing. To be eligible for challenge program funds, owner-occupied housing must be:

A. attached or detached, residential in nature, and able to be used profitably for a minimum of ten years after the end of the loan term;

B. occupied by an eligible homebuyer;

C. affordable to the local work force; and

D. able to be completed no later than the date that is 20 months after the date on which the successful applicant receives a commitment of challenge program funds from the agency.

Subp. 2. Requirements for rental housing. To be eligible for challenge program funds, rental housing must satisfy the following requirements:

A. the rental housing must be residential in nature, and each rental housing unit must contain a kitchen and a bathroom;

B. the rental housing must be permanent housing for which the term of tenancy may be extended indefinitely beyond the initial lease term;

C. the rental housing units must be occupied by households that satisfy the income limits provided in *Minnesota Statutes*, section 462A.33, subdivision 5, with respect to rental housing projects;

D. the rent charged for the rental housing units must be affordable to the local work force;

E. if the rental housing includes single-family or duplex properties, these properties must be located in the same city or county and contain a minimum of four units total; and

F. the use restrictions in this subpart must remain in effect until the later of:

(1) the date on which the loan is repaid or the grant agreement is terminated; or

(2) the date that is 15 years from the closing date of the loan or grant.

Subp. 3. Eligible contributions.

A. An in-kind contribution satisfies the requirements of *Minnesota Statutes*, section 462A.33, subdivision 3, clause (1), if it is a quantifiable noncash contribution in support of housing funded from the challenge program. A waiver of fees by a unit of local government constitutes an in-kind contribution.

B. A premium paid for federal housing tax credits by an area employer satisfies the requirements of *Minnesota Statutes*, section 462A.33, subdivision 3, if the applicant provides evidence to the agency that the price to be paid for the tax credits is higher than the market price for tax credits.

4900.3648 SELECTION STANDARDS.

Subpart 1. Generally. To be considered for funding under the challenge program, applicants must comply with the requirements in *Minnesota Statutes*, section 462A.33, parts 4900.3640 to 4900.3646, and satisfy the threshold criteria in this part.

Subp. 2. Overall project feasibility. The agency shall consider the following factors in determining whether an applicant has demonstrated overall project feasibility:

A. the nature of the proposed site;

B. whether the proposed housing is needed in the market that is intended to be served, based upon the population, job growth, and low housing vacancy rates; and

C. whether costs of developing the housing are reasonable and the housing is economically viable.

Subp. 3. Organizational capacity. The agency shall consider the following factors in determining whether an applicant has demonstrated sufficient organizational capacity:

A. the applicant's purpose and mission;

B. the applicant's related housing experience;

C. whether the applicant has successfully completed similar projects or is partnering with other organizations that have successfully completed similar projects; and

D. whether the applicant has the strong current and expected ongoing capacity to complete the proposed housing as well as other proposals being developed by the organization and the expected ongoing capacity to maintain the rental housing long term.

Subp. 4. Other considerations.

A. To the extent that economic vitality and housing initiative guidelines have been reviewed by the economic vitality and housing initiative group within the two years prior to the applicable application deadline and do not conflict with *Minnesota Statutes*, section 462A.33, the agency shall consider whether the applicant meets threshold criteria established in the economic vitality and housing initiative guidelines. The agency shall also consider priorities established in the economic vitality and housing initiative guidelines.

B. For proposals for housing for homeless or households at risk of becoming homeless persons, the agency shall consider whether the application is consistent with priorities stated in the applicable continuum of care plan.

4900.3650 FUNDING PRIORITY.

The agency shall give priority in awarding loans or grants under the challenge program to those proposals that best address the greatest number of the following priorities:

A. the extent to which the proposal includes contributions that comply with *Minnesota Statutes*, section 462A.33, subdivision 3, and whether the proposal includes contributions from a unit of local government; an area employer; and a private philanthropic, religious, or charitable organization;

B. the extent to which the proposal addresses the housing needs of underserved populations;

C. the extent to which the proposal contains clearly identified goals relating to the housing element of a cooperatively developed plan consistent with the mission of the agency;

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D. the extent to which the proposed housing is located near jobs; transportation, including regional and interregional transportation corridors and transitways; recreation; retail services; social and other services; and schools;

E. the extent to which the proposed housing is part of the infrastructure necessary to sustain economic vitality;

F. the extent to which the proposed housing maximizes the adaptive reuse of existing buildings and the use of existing infrastructure. If the proposal includes new housing, the agency shall consider the extent to which the efficient use of land and infrastructure is maximized and the loss of agricultural land and green space is minimized;

G. the extent to which private investment is included as a funding source;

H. the projected long-term affordability of the proposed housing;

I. the extent to which the proposed housing provides or maintains housing opportunities for households with a wide range of incomes and housing needs within a community or provides housing opportunities for a wide range of incomes within the proposed housing;

J. the extent to which the cost per unit is held as low as possible while not compromising the quality and sustainability of the proposed housing;

K. the extent to which the proposal identifies and includes identifiable cost avoidance or cost reductions from regulatory changes, incentives, or waivers by the local governing body, including, but not limited to:

(1) density bonuses;

(2) reduced setbacks and parking requirements;

(3) decreased road widths;

(4) flexibility in site development standards and zoning code requirements and waiver of permit or impact fees;

(5) fast-track permitting and approvals; and

(6) other regulatory incentives that will result in cost avoidance or reductions. If a proposal identifies and includes cost savings, the application must provide a quantified breakdown of the cost savings due to regulatory incentives or innovative building techniques or materials;

L. the extent to which the site and design of the proposed housing is suitable for the housing needs of the proposed tenant and homebuyer populations;

M. the extent to which the applicant has the capacity to complete the proposed housing in a timely fashion and, if the proposal includes rental housing, maintain the rental housing after completion; and

N. temporary priorities, as established by the members or the legislature, that reflect unexpected short-term changes in the demand for housing. An example of an unexpected short-term change is the need to direct resources to respond to a natural disaster, such as a flood or tornado. Temporary priorities are described in the application guide.

4900.3652 MANAGEMENT AND OPERATION.

Subpart 1. **Generally.** Applicants that are awarded challenge program funds for proposals that include rental housing shall comply with the management and operation requirements in this part.

Subp. 2. **Rent increases.** All rent increases must be approved by the agency and rent must remain affordable to the local work force.

Subp. 3. **Prohibition against discrimination.** The rental housing owner and the management agent shall not violate any federal, state, or local law or regulation prohibiting discrimination in the provision of housing and shall not refuse to rent to a household solely on the basis of the household's status as a recipient of tenant-based rental assistance.

Subp. 4. **Screening and affirmative marketing.** The rental housing owner or the management agent shall provide the agency with the screening criteria and the affirmative marketing fair housing plan to be used in managing the rental housing.

Subp. 5. **Utilization of units.** The rental housing owner or the management agent shall rent housing units to households in sizes appropriate to the unit size, with a ratio of at least one person per bedroom. If the household size changes during the course of tenancy, the household may request in writing to the owner or management agent to transfer to another unit or be placed on a waiting list for a transfer. The owner or management agent may also establish transfer criteria in house rules.

Minnesota Housing Finance Agency

Proposed Permanent Rules Governing the Housing Trust Fund Program

DUAL NOTICE: NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING UNLESS 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF HEARING IF 25 OR MORE REQUESTS FOR HEARING ARE RECEIVED

Repeal of Rules Governing the Housing Trust Fund Program, *Minnesota Rules*, parts 4900.1920 to 4900.1924, and Proposed New Rules Governing the Housing Trust Fund Program, *Minnesota Rules*, parts 4900.3700 to 4900.3768

Introduction. The Minnesota Housing Finance Agency intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, section 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on January 23, 2002, a public hearing will be held at the following location:

Minnesota Housing Finance Agency
State Street Conference Room (First Floor)
400 Sibley Street
St. Paul, MN, 55101-1998

The hearing will begin at 9:00 a.m. on Tuesday, February 12, 2002. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after January 23, 2002, and before February 12, 2002.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is:

Denise Rogers
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, MN, 55101-1998
Phone: (651) 296-8206
Fax: (651) 296-8139
Email: Denise.Rogers@state.mn.us
TTY users may call the Agency at (651) 297-2361

Subject of Rules, and Statutory Authority. The agency plans to repeal existing Housing Trust Fund rules, found at *Minnesota Rules*, parts 4900.1920 to 4900.1924, and to adopt new rules to implement the Housing Trust Fund Program as amended by *Minnesota Laws, 2001*, First Special Session, chapter 5, article 5, section 1. The Housing Trust Fund Program was created pursuant to *Minnesota Statutes*, section 462A.201, and is a development program that has historically served the lowest income families and individuals. During the 2001 Special Session, amendments were made to *Minnesota Statutes*, section 462A.201, that increased funding for the Housing Trust Fund Program, and consolidated the following additional existing agency programs:

- The Housing Trust Fund Transitional Housing Program,
- The Rent Assistance for Family Stabilization (RAFS) Program, and
- Some of the funding from the Affordable Rental Investment Fund.

The agency proposes to repeal the existing Housing Trust Fund Program rules and adopt new rules to reflect these recent legislative amendments. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Statutory Authority. *Minnesota Statutes*, section 462A.06, subdivision 11, authorizes the Agency to adopt rules *respecting its mortgage lending, construction lending, rehabilitation lending, grants, and temporary lending, and any such other rules as are necessary to effectuate its corporate purpose.* See also, *Minnesota Laws 2001*, First Special Session, chapter 4, article 4, section 13.

Comments. You have until 4:30 on January 23, 2002 to submit written comment in support of, or in opposition to, the proposed rules or any part or subpart of the rules. Your comments must be in writing and received by the agency contact person by the due

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date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Requests for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on January 23, 2002. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing, and the adopted rules may not be substantially different than the proposed rules unless the procedure under part 1400.2110 has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for February 12, 2002, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at 651-296-8206 after January 23, 2002, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Richard Luis is assigned to conduct the hearing. Judge Luis can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **phone:** (612) 349-2542, and **fax:** (612) 349-2665.

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable costs of the proposed rules. The statement may also be reviewed and copies obtained at the cost of reproduction from the agency.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, **phone:** (651) 296-5148 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and files them with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Katherine G. Hadley
Commissioner

HOUSING TRUST FUND PROGRAM

4900.3700 SCOPE.

Parts 4900.3700 to 4900.3769 govern the implementation of the housing trust fund program authorized by *Minnesota Statutes*, section 462A.201.

4900.3705 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 4900.3700 to 4900.3769 have the meanings given them in this part.

Subp. 2. Administrator. "Administrator" means an entity that has applied for and has been awarded funds from the housing trust fund program for rental assistance.

Subp. 3. Agency. "Agency" means the Minnesota Housing Finance Agency created by *Minnesota Statutes*, chapter 462A.

Subp. 4. Application guide. "Application guide" means the informational materials developed by the agency for the purposes of soliciting applications for and releasing funds under the housing trust fund program.

Subp. 5. Assisted unit. "Assisted unit" means a unit of housing that complies with part 4900.3725 in a housing development for which the agency has made a loan or grant under the housing trust fund program.

Subp. 6. Continuum of care plan. "Continuum of care plan" means a community plan prescribed by HUD to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency and includes action steps to end homelessness and prevent a return to homelessness.

Subp. 7. Cooperatively developed plan. "Cooperatively developed plan" means a plan that encompasses multiple affordable housing and related service initiatives in a geographically defined area that is developed through the cooperation and input of a city or county, or agency thereof, or a regional unit of government and one or more of the following entities:

- A. a neighborhood group or community group;
- B. housing providers; and
- C. housing funders.

Subp. 8. Deferred loan. "Deferred loan" means a non- or low-interest-bearing loan made without periodic payments and repaid in full at the end of the loan term.

Subp. 9. Gross rent. "Gross rent" means the sum of the rent paid to the owner, plus the utilities for which the tenant is responsible.

Subp. 10. Household at risk of becoming homeless. "Household at risk of becoming homeless" means a household that is faced with a situation or set of circumstances that is likely to cause the household to become homeless in the future, including living in substandard housing, living in housing that is inadequate for the size of the household, living in housing with a person who

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engages in domestic violence, paying more than 50 percent of household income for rent, or having insufficient household resources to pay for current housing and meet other basic needs.

Subp. 11. Metropolitan area. “Metropolitan area” means the area defined in *Minnesota Statutes*, section 462A.03, subdivision 23.

Subp. 12. Permanent rental housing. “Permanent rental housing” means housing for which the term of tenancy may be extended indefinitely beyond the initial lease term.

Subp. 13. Permanent supportive housing. “Permanent supportive housing” means permanent rental housing where support services are available to residents. Permanent supportive housing is available to individuals and families with multiple barriers to obtaining and maintaining housing, including those who are formerly homeless or at risk of homelessness and those with mental illness, substance abuse disorders, or HIV/AIDS.

Subp. 14. Project-based rental assistance. “Project-based rental assistance” means a rental subsidy provided for an individual household that resides in a specific housing development owned by the administrator of the project-based rental assistance.

Subp. 15. Public housing agency. “Public housing agency” means any state, county, municipality, or other governmental entity or public body, or agency thereof, that is authorized to engage or assist in the development or operation of low-income housing.

Subp. 16. Rental housing. “Rental housing” means housing that is used to provide living accommodations to persons or families on a rental basis. This definition does not include owner-occupied housing.

Subp. 17. Rental subsidy. “Rental subsidy” means that portion of the gross rent paid to a landlord on behalf of a tenant.

Subp. 18. Sponsor-based rental assistance. “Sponsor-based rental assistance” means a rental subsidy provided for an individual household through a sponsor organization that owns or leases rental housing units in various locations and that has contracts with property owners to make the rental housing units available to eligible households.

Subp. 19. Super request for proposals (RFP) round. “Super request for proposals (RFP) round” means the agency’s multi-family request for proposals as authorized by the members.

Subp. 20. Tenant-based rental assistance. “Tenant-based rental assistance” means a rental subsidy provided for an individual household that chooses its own rental housing unit.

Subp. 21. Underserved populations. “Underserved populations” means individuals or households of color, single female heads of households with minor children, and disabled individuals.

Subp. 22. Utilities for which the tenant is responsible. “Utilities for which the tenant is responsible” means one or more of the following utilities, as specifically provided for in the lease agreement between a landlord and a tenant:

- A. water;
- B. sewer;
- C. gas; and
- D. electric.

4900.3710 ALLOCATION AND AVAILABILITY OF FUNDS.

Subpart 1. Permitted activities. The agency may use funds from the housing trust fund program to fund the following activities:

- A. capital financing;
- B. operating subsidies for unique costs and revenue shortfall; and
- C. rental assistance.

The agency shall issue an application guide prior to each round of funding under the housing trust fund program.

Subp. 2. Allocation of funds among activities. Each biennium, the agency shall determine how the funds will be allocated among the activities permitted under the housing trust fund program. The agency shall take into consideration the following factors when determining the allocation of funds among the activities:

- A. past allocation of agency resources among activities;
- B. market conditions such as vacancy rates, rent levels, utilization of Section 8 vouchers, and Section 8 waiting lists;
- C. unanticipated events such as natural disasters;
- D. other agency resources that are available to meet the need for housing trust fund program activities; and
- E. other nonagency resources that are available to meet the need for housing trust fund program activities.

The agency shall review the allocation of funds between capital financing, operating subsidy, and rental assistance activities periodically and no less frequently than during each super request for proposals round. The agency may make adjustments to this allocation based on the factors listed in items A to E, the number of applications received in each funding round, and the quality of applications received in each funding round.

Subp. 3. **Availability of funds.** The agency shall accept applications for housing trust fund program funding in every super request for proposals round in which funding is available. The agency may accept applications for housing trust fund program funding outside the super request for proposals rounds under the following circumstances:

A. unanticipated changes in market conditions such as vacancy rates, rent levels, utilization of Section 8 vouchers, and Section 8 waiting lists;

B. unanticipated events such as natural disasters; or

C. changes in nonagency resources that are available to meet the need for housing trust fund program activities.

CAPITAL FUNDING

4900.3720 TYPES OF FUNDING AVAILABLE.

The agency shall provide construction and permanent financing for rental housing from the housing trust fund program in the form of a deferred loan. The agency shall provide housing trust fund program funds in the form of a grant if:

A. the applicant provides documentation confirming that another funding source requires the agency's funds to be provided in the form of a grant; and

B. the other funding source is providing a greater amount of funding than the agency is providing.

4900.3721 LOANS.

Subpart 1. **Loan type and term.** The agency shall award housing trust fund program loans in the form of a deferred loan unless an amortizing loan is requested by the borrower and deemed financially feasible by the agency. The term of the loan is 30 years from the date of the loan closing; however, the agency may adjust the loan term based on any of the following factors:

A. requirements and conditions of other funding sources related to loan term;

B. the existence of a leasehold mortgage on the property benefited by the loan; or

C. economic analysis by agency staff demonstrating that the housing will not have sufficient value at the end of the loan term to allow the borrower to repay the loan.

Subp. 2. **Interest rate and repayment.** Housing trust fund program loans bear interest at a rate of zero percent unless a higher interest rate is necessary to allow housing trust fund program funds to be used with other funding sources. Principal and interest, if any, are due and payable at the end of the 30-year term.

4900.3722 GRANTS.

Subpart 1. **Term.** The term of housing trust fund program grants is 30 years from the date of the grant award; however, the agency may adjust the grant term based on requirements and conditions of other funding sources related to the grant term or the existence of a leasehold mortgage on the property benefited by the grant.

Subp. 2. **Repayment.** Housing trust fund program grants must be repaid in full to the agency if the grant recipient does not comply with the conditions of its grant agreement with the agency and shall be forgiven in full at the end of the 30-year term if the grant recipient complies with the grant agreement throughout the grant term.

4900.3723 REPAYMENT PROCESSING FEE.

The agency shall charge borrowers a repayment processing fee when a housing trust fund program loan or grant is repaid in full, as provided in the loan or grant agreement between the borrower or grant recipient and the agency. The amount of the processing fee is equal to the approximate administrative costs incurred by the agency in processing the repayment.

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4900.3724 SALE OF HOUSING OR ASSUMPTION OF LOAN.

The agency shall approve the sale of rental housing financed, or the assumption of a loan or grant made, under this part if the entity purchasing the rental housing or assuming the loan meets the agency's current mortgage credit and underwriting standards. The agency shall charge the original borrower or grant recipient an assumption fee in an amount equal to the approximate administrative costs incurred by the agency in processing the sale or assumption, as provided in the loan or grant agreement between the borrower or grant recipient and the agency.

4900.3725 ELIGIBLE APPLICANTS.

To be eligible to apply for capital funding under the housing trust fund program, an applicant must be:

- A. a nonprofit organization, as defined in *Minnesota Statutes*, section 462A.03, subdivision 22;
- B. a for-profit organization;
- C. a limited dividend entity, as defined in part 4900.0010, subpart 14;
- D. a cooperative housing corporation, as defined in part 4900.0010, subpart 8;
- E. a city, as defined in *Minnesota Statutes*, section 462A.03, subdivision 21;
- F. a joint powers board established by two or more cities;
- G. a public housing agency;
- H. an Indian tribe or tribal housing corporation; or
- I. a natural person.

4900.3726 ELIGIBLE APPLICATIONS.

The applicant shall provide an application in the form prescribed by the agency. The application for capital funding must include:

- A. a description of the applicants' goals and objectives in meeting the area's need for the type of housing proposed;
- B. a detailed description of how the housing will be developed and managed, including a description of the proposed site for the housing and preliminary architectural plans or proposed work scope for the housing;
- C. a description of the development and management staffs' qualifications;
- D. a detailed budget for the development of the housing showing all development costs and the sources of funds to pay for them;
- E. a detailed budget for the operation of the housing showing all anticipated operating costs and the proposed rents and other income;
- F. a description of the proposed development, management, and operation of any common or commercial space;
- G. a detailed description of whether the proposal involves temporary or permanent displacement or relocation of persons living in affected housing. If the proposal involves temporary or permanent displacement or relocation of persons living in affected housing, the applicant shall develop and submit a plan for minimizing relocation and displacement of the affected persons;
- H. for housing developments where tenants will need social and related services in order to establish or maintain residency, a plan for how the service needs of tenants will be met, including, as appropriate, a detailed budget showing the costs of the services and proposed funding sources for the services;
- I. specific documentation, as requested by the agency, that will allow the agency to evaluate the ability of the proposal to meet the selection standards in part 4900.3727 and the funding priorities in part 4900.3728; and
- J. a proposed tenant selection plan.

4900.3727 ELIGIBLE USES OF FUNDS.

To be eligible for capital funding under the housing trust fund program, rental housing must satisfy the following requirements.

- A. The proposed housing development must consist of living accommodations for persons and families. State licensed nursing homes, board and care facilities and supervised living facilities are not eligible housing developments.
- B. The assisted units in the proposed housing development must provide rental housing for persons and families whose income, at the time of initial occupancy, does not exceed 60 percent of median income as determined by HUD for the metropolitan area. Incomes may be adjusted for family size for families with five or more people. A household with a Section 8 housing assistance voucher is deemed to meet the income requirements of this item.
- C. The proposed housing developments must consist of a minimum of four rental housing units.

D. If the proposed housing development will include single family or duplex properties, these properties must be located in the same city or county and contain a minimum of four units total.

E. The use restrictions in this part must remain in effect until the later of:

- (1) the date on which the loan is repaid or the grant agreement is terminated; or
- (2) the date that is 15 years from the closing date of the loan or grant.

F. At least 75 percent of funds in the housing trust fund program must be used for the benefit of persons and families whose income, at the time of initial occupancy, does not exceed 30 percent of the median family income for the metropolitan area. Incomes may be adjusted for family size for families with five or more people.

4900.3728 HOUSING-RELATED SPACE.

The proposed housing development may include housing-related space such as community, administrative, or program space. The agency shall consider the following factors when determining the amount of housing-related space that will be funded:

- A. the extent to which the proposed use of the space fits with the service needs of the tenants of the proposed housing development and does not expose the tenants to security risks or the development to financial risk;
- B. the ease with which the space is convertible to residential space;
- C. the capacity of the applicant or any partner organization to operate and manage the space;
- D. whether similar services or facilities that are appropriate for the tenants of the proposed housing development are located nearby;
- E. whether the space will be used exclusively by the tenants of the proposed housing development; and
- F. the availability of other funding for the space.

4900.3729 SELECTION STANDARDS.

Subpart 1. **Generally.** To be considered for capital funding under the housing trust fund program, applicants must comply with the requirements in *Minnesota Statutes*, section 462A.201, parts 4900.3725 to 4900.3728, and satisfy the threshold criteria in subparts 2 and 3.

Subp. 2. **Overall project feasibility.** The agency shall consider the following factors in determining whether an applicant has demonstrated overall project feasibility:

- A. the nature of the proposed site;
- B. whether the proposed housing is needed in the market that is intended to be served, based upon the population, job growth, and very low housing vacancy rates;
- C. whether costs of developing the housing are reasonable and whether the housing is economically viable; and
- D. for permanent supportive housing, whether the applicant has secured long-term funding for the support services that address the special needs of proposed tenants.

Subp. 3. **Organizational capacity.** The agency shall consider the following factors in determining whether an applicant has demonstrated sufficient organizational capacity:

- A. the applicant's purpose and mission;
- B. the applicant's related housing experience;
- C. whether the applicant has successfully completed similar projects or is partnering with other organizations that have successfully completed similar projects; and
- D. whether the applicant has the strong current and expected ongoing capacity to complete the proposed housing as well as other proposals being developed by the organization and the expected ongoing capacity to maintain the rental housing long term.

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Proposed Rules

4900.3730 FUNDING PRIORITIES.

Among proposals that satisfy the selection standards in part 4900.3729, the agency shall give priority in awarding loans or grants for capital funding under the housing trust fund program to those proposals that best address the greatest number of the following priorities:

A. the extent to which the proposed housing will serve persons and families whose incomes, at the time of initial occupancy, do not exceed 30 percent of 30 percent of the median family income for the metropolitan area. Incomes may be adjusted for family size for families with five or more people;

B. the extent to which the amount of rent to be paid by tenants of the proposed housing does not exceed 30 percent of the area median income as determined by HUD. Incomes may be adjusted for family size for families with five or more people;

C. the extent to which the proposal addresses the housing needs of underserved populations;

D. the extent to which the proposal contains clearly identified goals relating to the housing element of a cooperatively developed plan consistent with the mission of the agency;

E. the extent to which the proposed housing is located near jobs; transportation, including regional and interregional transportation corridors and transitways; recreation; retail services; social and other services; and schools;

F. the extent to which the proposed housing is part of the infrastructure necessary to sustain economic vitality;

G. the extent to which the proposed housing maximizes the adaptive reuse of existing buildings and the use of existing infrastructure. If the proposal includes new housing, the agency shall consider the extent to which the efficient use of land and infrastructure is maximized and the loss of agricultural land and green space is minimized;

H. the extent to which private investment or investment of local units of government is included as a funding source;

I. the projected long-term affordability of the proposed housing;

J. the extent to which the proposed housing provides or maintains housing opportunities for households with a wide range of incomes and housing needs within a community or provides housing opportunities for a wide range of incomes within the proposed housing;

K. the extent to which the cost per unit is held as low as possible while not compromising the quality and sustainability of the proposed housing;

L. the extent to which the proposal identifies and includes identifiable cost avoidance or cost reductions from regulatory changes, incentives, or waivers by the local governing body, including, but not limited to:

(1) density bonuses;

(2) reduced setbacks and parking requirements;

(3) decreased road widths;

(4) flexibility in site development standards and zoning code requirements and waiver of permit or impact fees;

(5) fast-track permitting and approvals; and

(6) other regulatory incentives that will result in cost avoidance or reductions. If a proposal identifies and includes cost savings, the application must provide a quantified breakdown of the cost savings due to regulatory incentives;

M. for proposed housing that will serve homeless persons or families, or households at risk of becoming homeless, the extent to which the proposal reflects locally determined priorities described in the continuum of care plan;

N. the extent to which the site and design of the proposed housing development is suitable for the housing needs of the proposed tenant population;

O. the extent to which the applicant has the capacity to complete the proposed housing development in a timely fashion and maintain the housing development after completion; and

P. temporary priorities, as established by the members or the legislature, that reflect unexpected short-term changes in the demand for housing. An example of an unexpected short-term change is the need to direct resources to respond to a natural disaster, such as a flood or tornado. Temporary priorities are described in the application guide.

4900.3731 MANAGEMENT AND OPERATION.

Subpart 1. Generally. Applicants that are awarded housing trust fund program funds must comply with the management and operations requirements in this part.

Subp. 2. Rent increases. All rent increases must be approved by the agency and must comply with the terms of any lease and applicable law.

Subp. 3. Prohibition against discrimination. The housing development owner and its management agent shall not violate any federal, state, or local law or regulation prohibiting discrimination in the provision of housing and shall not refuse to rent to a household solely on the basis of the household's status as a recipient of tenant-based rental assistance.

Subp. 4. Screening and affirmative marketing. The housing development owner or its management agent shall provide the agency with the screening criteria and the affirmative fair housing marketing plan to be used in managing the housing development.

Subp. 5. Utilization of units. The housing development owner or its management agent shall rent housing units to households in sizes appropriate to the unit size, with a ratio of at least one person per bedroom. If the household size changes during the course of tenancy, the household may request in writing to the owner or management agent to transfer to another unit or be placed on a waiting list for a transfer. In the event of a decrease in household size, the household shall be required to move to the next available suitably sized smaller unit if a smaller unit is available in the housing development. If the decrease in household size is not expected to last for six months beyond the month of departure of a household member, the household shall not be required to move. The owner or management agent may also establish transfer criteria in house rules.

OPERATING SUBSIDIES

4900.3740 TYPES OF FUNDING AVAILABLE.

The agency may provide an operating subsidy from the housing trust fund program for rental housing for which the agency has provided capital funding. The operating subsidy is available in two forms: (1) operating subsidy-unique costs, for those costs of operating rental housing that are unique to the operation of low-income rental or supportive housing; or (2) operating subsidy-revenue shortfall. The agency shall award the operating subsidy in the form of a grant.

4900.3741 ELIGIBLE APPLICANTS.

To be eligible to apply for an operating subsidy under the housing trust fund program, an applicant must be:

A. the owner of a housing development that is funded with a loan or a grant from the agency; or

B. an applicant for a loan or grant from the agency to fund the acquisition, construction, or rehabilitation of rental housing.

4900.3742 ELIGIBLE APPLICATIONS.

The applicant shall provide an application in the form prescribed by the agency. The application for an operating subsidy must include:

A. for existing housing developments, the most recent budget for the operation the housing development showing all operating costs and rents and other income;

B. a ten-year projected budget for the operation of the housing development showing all operating costs and the rents and other income;

C. a description of the applicant's goals and objectives in meeting the area's need for the type of housing proposed;

D. a detailed description of how the housing will be developed and managed, including:

(1) the qualifications of the development and management staff;

(2) a proposed tenant selection plan;

(3) a description of the existing or proposed development, management, and operation of any community, administrative, or program space; and

(4) a description of the existing or proposed development, management, and operation of any commercial space;

E. for housing developments where tenants will need social and related services in order to establish or maintain residency, a plan for how the service needs of tenants will be met, including, as appropriate, a detailed budget showing the costs of the services and proposed funding sources for the services; and

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

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F. specific documentation, as requested by the agency, that will allow the agency to evaluate the ability of the proposal to meet the selection standards in part 4900.3745 and the funding priorities in part 4900.3746.

4900.3743 ELIGIBLE USES OF FUNDS.

Subpart 1. **Generally.** At least 75 percent of funds in the housing trust fund program must be used for the benefit of persons and families whose income, at the time of the initial occupancy, does not exceed 30 percent of the median family income for the metropolitan area. Incomes may be adjusted for family size for families with five or more people.

Subp. 2. **Operating subsidy-unique costs.** The agency may fund those costs of operating rental housing that are unique to the operation of low-income rental housing and supportive housing. To be eligible for operating subsidy-unique costs funding under the housing trust fund program, applicants must satisfy the requirements in items A and B.

A. The proposed operating costs must be critical both to the economic viability of the housing development and to serving the population for whom the housing is designed. Examples of operating costs that are eligible for funding under this subpart include front desk operation, costs of operating service-related space, security, tenant coordinator, and interpretative services.

B. The housing trust fund program funds must be used to provide an operating subsidy for a housing development in which the assisted units provide housing for person and families whose incomes at the time of initial occupancy do not exceed 60 percent of median income as determined by HUD for the metropolitan area. Incomes may be adjusted for family size for families with five or more people. A household with a Section 8 housing assistance voucher is deemed to meet the income requirements of this item.

Subp. 3. **Operating subsidy-revenue shortfall.** The agency may provide an operating subsidy to cover a housing development's revenue shortfall. To be eligible for operating subsidy-revenue shortfall funding under the housing trust fund program, applicants must satisfy the requirements in items A and B.

A. The operating subsidy funds must be used to reduce the difference between the costs of operating the housing development and the rents that the tenants expected to reside in the assisted units can afford to pay. The operating subsidy funds may not be used to pay an asset management fee to the owner of the housing development.

B. The housing trust fund program funds must be used to provide an operating subsidy for a housing development in which the assisted units provide housing for persons and families whose incomes, at the time of initial occupancy, do not exceed 60 percent of median income as determined by HUD for the metropolitan area. Incomes may be adjusted for family size for families with five or more people. A household with a Section 8 housing assistance voucher is deemed to meet the income requirements of this item.

4900.3744 SELECTION STANDARDS.

To be considered for operating subsidy funding under the housing trust fund program, applicants must comply with the requirements in *Minnesota Statutes*, section 462A.201, parts 4900.3741 to 4900.3743, and satisfy the threshold criteria in this part. To determine whether an applicant will be selected for operating subsidy funding, the agency shall consider:

A. whether the proposed operating subsidy is needed in the market to be served;

B. the financial feasibility of the housing development without the proposed operating subsidy;

C. the likelihood that the applicant or its partner organization will be able to implement and operate the proposed operating subsidy;

D. the availability of funds from private or public sources to assist in making the housing development economically feasible;
and

E. for permanent supportive housing, the extent to which long-term funding is secured for the support services that address the special needs of proposed tenants.

4900.3745 FUNDING PRIORITIES.

Among proposals that satisfy the selection standards in part 4900.3744, the agency shall give priority in awarding operating subsidies under the housing trust fund program to those proposals that best address the greatest number of the following priorities:

A. the extent to which the proposed housing will serve persons and families whose incomes at the time of initial occupancy do not exceed 30 percent of 30 percent of the median family income for the metropolitan area. Incomes may be adjusted for family size for families with five or more people;

B. the extent to which the amount of rent to be paid by tenants of the proposed housing does not exceed 30 percent of the area median income as determined by HUD. Incomes may be adjusted for family size for families with five or more people;

C. the extent to which the proposal addresses the housing needs of underserved populations;

D. the extent to which the proposal contains clearly identified goals relating to the housing element of a cooperatively developed plan consistent with the mission of the agency;

E. the extent to which the proposed housing is located near jobs; transportation, including regional and interregional transportation corridors and transitways; recreation; retail services; social and other services; and schools;

F. the extent to which the proposed housing is part of the infrastructure necessary to sustain economic vitality;

G. the extent to which private investment or investment of local units of government is included as a funding source;

H. the projected long-term affordability of the proposed housing;

I. the extent to which the proposed housing provides or maintains housing opportunities for households with a wide range of incomes and housing needs within a community or provides housing opportunities for a wide range of incomes within the proposed housing;

J. the extent to which the operating subsidy is held as low as possible while not compromising the economic viability of the proposed housing;

K. a priority for permanent supportive housing developments;

L. a priority for the creation of new assisted housing units;

M. for proposed housing that will serve homeless or households at risk of becoming homeless, the extent to which the proposal reflects locally determined priorities described in the continuum of care plan; and

N. for operating subsidies-unique costs, whether the proposed housing development includes creative approaches to the provision of affordable housing that can be replicated and serve as a model for other providers of affordable housing.

4900.3746 ADMINISTRATION OF OPERATING SUBSIDY.

Subpart 1. Unique costs.

A. The agency shall provide operating subsidy-unique costs to the owner of the benefited housing development according to the agreement between the owner and the agency governing the use of the operating subsidy.

B. The operating subsidy-unique costs may be provided for up to ten years.

C. The agency may terminate the operating subsidy if (1) the operating subsidy is no longer needed to ensure the economic viability of the housing development; or (2) the owner of the benefited housing development has failed to comply with any agreement with the agency governing the use of the operating subsidy.

D. The agency may reduce the operating subsidy if the full amount of the operating subsidy is not necessary to ensure the economic viability of the housing development.

Subp. 2. Revenue shortfall.

A. The agency shall provide an operating subsidy-revenue shortfall to the owner of the benefited housing development in the form of periodic payments for the benefit of a fixed number of units. In determining the amount of funding to be awarded, the agency shall consider the following factors:

(1) the most recent budget for the operation of the housing development, if applicable;

(2) a ten-year projected budget for the operation of the housing development;

(3) the ability of the tenants expected to reside in the housing development to pay the proposed rents; and

(4) the reasonableness of rents and operating costs for the housing development based on housing industry standards.

B. Owners of housing developments benefited by an operating subsidy-revenue shortfall under the housing trust fund program will be responsible for the following:

(1) recruiting tenants;

(2) maintaining a current waiting list of applicants;

(3) determining the eligibility of tenants according to *Minnesota Statutes*, section 462A.201, subdivision 2, paragraph (b);

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(4) verifying tenant incomes at initial occupancy;

(5) providing and adhering to a budget for the operation of the housing development showing all operating costs, rents and other income, and rent schedules;

(6) requisitioning operating subsidy payments from the agency;

(7) meeting agency reporting requirements;

(8) maintaining and retaining records as required by the agency; and

(9) other requirements as described in any agreement with the agency governing the use of the operating subsidy.

C. The operating subsidy-revenue shortfall may be provided for up to ten years.

D. The agency may terminate the operating subsidy if (1) the operating subsidy is no longer needed to ensure the economic viability of the housing development; or (2) the owner of the benefited housing development has failed to comply with any agreement with the agency governing the use of the operating subsidy.

E. The agency may reduce the number of units for which an operating subsidy is provided, or the amount of assistance per unit, if the full amount of the operating subsidy is not necessary to ensure the economic viability of the housing development.

RENTAL ASSISTANCE

4900.3760 TYPES OF FUNDING AVAILABLE.

The agency may provide rental assistance to an administrator from the housing trust fund program. The agency shall award all forms of rental assistance in the form of a grant. Rental assistance from the housing trust fund program is intended to be temporary in nature and to provide assistance through an administrator to an individual household until the household's income rises above the income limits in *Minnesota Statutes*, section 462A.201, subdivision 2, paragraph (b), or until the household receives rental assistance that is not time limited, such as Section 8.

4900.3761 ELIGIBLE APPLICANTS.

To be eligible to apply for rental assistance funding under the housing trust fund program, an applicant must be:

A. a nonprofit organization, as defined in *Minnesota Statutes*, section 462A.03, subdivision 22;

B. a for-profit organization;

C. a limited dividend entity, as defined in part 4900.0010, subpart 14;

D. a cooperative housing corporation, as defined in part 4900.0010, subpart 8;

E. a city, as defined in *Minnesota Statutes*, section 462A.03, subdivision 21;

F. a joint powers board established by two or more cities;

G. a public housing agency;

H. an Indian tribe or tribal housing corporation; or

I. a natural person.

Applicants must demonstrate experience and ability in the administration of tenant-based, sponsor-based, or project-based rental assistance or must partner with an organization with demonstrated experience and ability in the administration of tenant-based, sponsor-based, or project-based rental assistance.

Applicants for project-based rental assistance must be the owner of a rental housing development that is funded with a loan or a grant from the agency or an applicant for a loan or grant from the agency to fund the acquisition, construction, or rehabilitation of rental housing.

4900.3762 ELIGIBLE APPLICATIONS.

The applicant shall provide an application in the form prescribed by the agency. The application must include:

A. a description of the population to be served and its need for rental assistance;

B. a description of the applicant's service area and goals and objectives in providing rental assistance;

C. a description of how the applicant will:

(1) recruit and select tenants for participation;

(2) terminate tenants from its rental assistance program; and

(3) locate rental housing units;

D. a plan for transitioning tenants off housing trust fund program rental assistance;

E. a description of the applicant's experience and ability to administer a tenant-based, sponsor-based, or project-based rental assistance program or its partnership with an organization that has this experience and ability;

F. a detailed budget for the rental assistance, including how the applicant will determine the amount of rental subsidy that it will pay on behalf of the tenants, and administrative fees as permitted by part 4900.3765, subpart 6;

G. a description of how the applicant will ensure that the rental assistance is used only in rental housing units that meet the requirements set forth in *Minnesota Statutes*, section 462A.201, subdivision 2, paragraph (c);

H. if the administrator plans to allow more than annual recertifications of tenant income, a description of how often and under what circumstances recertification will be allowed; and

I. specific documentation, as required by the agency, that will allow the agency to evaluate the ability of the proposal to meet the selection standards in part 4900.3768 and the funding priorities in part 4900.3769.

4900.3763 ELIGIBLE USES OF FUNDS.

A. Funds from the housing trust fund program may be used to provide tenant-based rental assistance, sponsor-based rental assistance, or project-based rental assistance and to pay security deposits.

B. Administrators of tenant-based rental assistance and sponsor-based rental assistance may receive administrative fees under the housing trust fund program according to part 4900.3767, subpart 6. Administrators of project-based rental assistance may not receive administrative fees under the housing trust fund program.

C. The following items are not eligible for funding under the housing trust fund program: damage claims or fees, application fees, vacancy payments, and utility connection fees.

D. At least 75 percent of funds in the housing trust fund program must be used for the benefit of persons and families whose income, at the time of initial occupancy, does not exceed 30 percent of the median family income for the metropolitan area. Incomes may be adjusted for family size for families with five or more people.

4900.3764 ELIGIBLE TENANTS.

Eligible tenants are persons or families whose income, at the time of initial occupancy, does not exceed 60 percent of median income as determined by HUD for the metropolitan area. Incomes may be adjusted for family size for families with five or more people. A household with a Section 8 housing assistance voucher is deemed to meet the income requirements of this part.

Tenants do not have to be eligible for the Section 8 tenant-based rental assistance housing choice voucher program in order to be eligible for rental assistance funded by the housing trust fund program.

4900.3765 SELECTION STANDARDS.

To be considered for rental assistance funding under the housing trust fund program, applicants must comply with the requirements in *Minnesota Statutes*, section 462A.201, parts 4900.3761 to 4900.3764, and satisfy the threshold criteria in this part. To determine whether an applicant will be selected for rental assistance funding, the agency shall consider:

A. the likelihood that the applicant's rental assistance program will be implemented in a timely manner; and

B. the likelihood that the applicant will be able to implement and operate the proposed rental assistance program, based on a consideration of whether the:

(1) purpose of the applicant is housing related;

(2) proposed rental assistance program is consistent with the applicant's mission;

(3) applicant or its partner organization has demonstrated experience and ability in administering rental assistance; and

(4) applicant has sufficient, qualified staff to administer the proposed rental assistance program.

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Proposed Rules

4900.3766 FUNDING PRIORITIES.

Among proposals that satisfy the selection standards in part 4900.3765, the agency shall give priority in awarding rental assistance funding under the housing trust fund program to those proposals that best address the greatest number of the following priorities:

A. the extent to which the rental assistance program proposes to serve persons and families whose income at the time of initial occupancy does not exceed 30 percent of 30 percent of the median family income for the metropolitan area. Incomes may be adjusted for family size for families with five or more people;

B. the extent to which the amount of rent to be paid by tenants of the proposed housing does not exceed 30 percent of the area median income as determined by HUD. Incomes may be adjusted for family size for families with five or more people;

C. for rental assistance proposals that propose to serve homeless or households at risk of becoming homeless, the extent to which the rental assistance program reflects locally determined priorities described in the continuum of care plan;

D. the extent to which the applicant's plan to transition households off rental assistance under the housing trust fund program includes components necessary to stabilize a household by either increasing the household's income or locating a source of rental assistance that is not time limited;

E. the extent to which the proposal addresses the housing needs of underserved populations;

F. the extent to which the proposed administrative fees are reasonable and demonstrate cost effectiveness;

G. the extent to which the rental subsidy is kept as low as possible without compromising the stability of the tenant; and

H. the extent to which other resources are not available to provide rental assistance in the service area, including but not limited to, the availability of Section 8 rental assistance.

4900.3767 ADMINISTRATION OF TENANT-BASED AND SPONSOR-BASED RENTAL ASSISTANCE.

Subpart 1. Amount of assistance. There is no minimum amount of rental subsidy that an administrator must provide to each tenant. The maximum amount of rental subsidy provided to each tenant will be no greater than the difference between 30 percent of the tenant's income and the payment standard as established by the local public housing agency or housing and redevelopment authority according to Code of Federal Regulations, title 24, part 982.

Subp. 2. Form of funding. The agency shall provide tenant-based and sponsor-based rental assistance funding to the administrator according to the agreement between the administrator and the agency governing the use of the rental assistance funding.

Subp. 3. Length of time. An administrator shall provide a rental subsidy to a tenant for no more than five consecutive years. This time limit does not apply when Section 8 rental assistance is not available in the administrator's service area.

Subp. 4. Termination of rental subsidy.

A. An administrator must terminate a tenant's rental subsidy, according to the termination procedures in subpart 5, item A, when, upon annual recertification and verification of income, it determines that 30 percent of the household's monthly income for the preceding four consecutive months equals or exceeds the market rent for the unit in which the household resides plus the utilities for which the tenant is responsible. The utilities for which the tenant is responsible will be determined by using the utility allowance calculation provided by the local public housing agency or housing and redevelopment authority.

B. An administrator may terminate a tenant's rental subsidy, according to the termination procedures in subpart 5, item B, if the tenant is evicted for (1) serious or repeated violations of terms and conditions of the lease or (2) violation of any federal, state, or local law that imposed obligation on the tenant in connection with occupancy or use of the unit in which the tenant resides.

Subp. 5. Notice of termination.

A. If an administrator terminates a tenant's rental subsidy because the tenant's household income at recertification exceeds the limits in subpart 4, item A, the administrator shall provide written notice to both the tenant and the landlord that the rental subsidy will end on the last day of the second month following the month in which the notice is given.

Example: if on January 12 the administrator determines that 30 percent of the tenant's income for each of the four months from September through December equals or exceeds the market rent for the unit in which the household resides plus the utilities for which the tenant is responsible, the administrator will provide notice to the tenant that the rental subsidy will end on the last day of March.

B. If an administrator terminates a tenant's rental subsidy because the tenant is being evicted under the conditions in subpart 4, item B, the administrator shall provide written notice to both the tenant and the landlord that the rental subsidy will end on the last day of the month in which the tenant vacates the unit.

Subp. 6. **Administrative fees.** The agency shall pay administrators of tenant-based and sponsor-based rental assistance a monthly administrative fee for each month in which an eligible household resides in a rental housing unit. The applicant shall propose an administrative fee in its application. The applicant's proposed monthly administrative fee may not exceed the fee paid by HUD to administrators of the Section 8 housing assistance program in the same jurisdiction, as described in *Code of Federal Regulations*, title 24, section 982.152.

Subp. 7. **Responsibilities of administrators.** Administrators of tenant-based and sponsor-based rental assistance are responsible for the following activities:

A. recruiting tenants and landlords;

B. determining the eligibility of tenants according to *Minnesota Statutes*, section 462A.201, subdivision 2, paragraph (b);

C. assuring the quality of the housing according to *Minnesota Statutes*, section 462A.201, subdivision 2, paragraph (c);

D. conducting verification and annual recertifications of tenant incomes;

E. requisitioning rental subsidy payments from the agency;

F. paying rental subsidies directly to landlords in a timely manner;

G. meeting agency reporting requirements;

H. maintaining and retaining records; and

I. implementing plans for transitioning tenants off housing trust fund program rental assistance, as described in part 4900.3762.

Subp. 8. **Termination of administrator.** The agency shall terminate an administrator if the administrator has failed to comply with any agreement with the agency governing the use of the rental assistance funds within the time allowed by any applicable cure period.

4900.3768 ADMINISTRATION OF PROJECT-BASED RENTAL ASSISTANCE.

Subpart 1. **Amount of assistance.** There is no minimum amount of rental subsidy that an administrator must provide to each tenant. The maximum amount of rental subsidy provided to each tenant will be no greater than the difference between 30 percent of the tenant's income and the payment standard as established by the local public housing agency or housing and redevelopment authority in accordance with *Code of Federal Regulations*, title 24, part 982.

Subp. 2. **Form of funding.** The agency shall provide project-based rental assistance funding to the administrator according to the agreement between the administrator and the agency governing the use of the rental assistance funding.

Subp. 3. **Length of time.** An administrator shall provide a rental subsidy to a tenant for no more than five consecutive years. This time limit does not apply when Section 8 rental assistance is not available in the administrator's service area.

Subp. 4. **Termination of rental subsidy.** An administrator must terminate a tenant's rental subsidy, according to the termination procedures in subpart 5, when, upon annual recertification and verification of income, it determines that 30 percent of the household's monthly income for the preceding four consecutive months equals or exceeds the market rent for the unit in which the household resides plus the utilities for which the tenant is responsible. The utilities for which the tenant is responsible will be determined by using the utility allowance calculation provided by the local public housing agency or housing and redevelopment authority.

Subp. 5. **Notice of termination.** If an administrator terminates a tenant's rental subsidy because the tenant's household income at recertification exceeds the limits in subpart 4, the administrator shall provide written notice to both the tenant and the landlord that the rental subsidy will end on the last day of the second month following the month in which the notice is given.

Example: if on January 12 the administrator determines that 30 percent of the tenant's income for each of the four months from September through December equals or exceeds the market rent for the unit in which the household resides plus the utilities for which the tenant is responsible, the administrator will provide notice to the tenant that the rental subsidy will end on the last day of March.

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Subp. 6. Responsibilities of administrators. Administrators of project-based rental assistance shall be responsible for the following activities:

- A. determining the eligibility of tenants according to Minnesota Statutes, section 462A.201, subdivision 2, paragraph (b);
- B. maintaining a waiting list of tenants;
- C. assuring the quality of the housing according to Minnesota Statutes, section 462A.201, subdivision 2, paragraph (c);
- D. conducting verification and annual recertifications of tenant incomes;
- E. requisitioning rental subsidy payments from the agency;
- F. meeting agency reporting requirements; and
- G. maintaining and retaining records.

Subp. 7. Termination of administrator. The agency shall terminate an administrator if the administrator has failed to comply with any agreement with the agency governing the use of the rental assistance funds within the time allowed by any applicable cure period.

4900.3769 EXTENSION OF FUNDING FOR RENTAL ASSISTANCE.

A. The agency shall review the performance of administrators on an annual basis. Administrators may, at that annual review, apply for an extension of rental assistance funding.

B. The agency shall consider the following factors when determining whether an administrator will receive an extension of funding:

- (1) the performance of the administrator, including its timely expenditure of rental assistance funds and its success in reaching the goals and objectives described in its application;
- (2) the availability of funding for housing trust fund program rental assistance;
- (3) the availability of funding for rental assistance from sources other than the housing trust fund program;
- (4) market conditions in the administrator's service area, such as area vacancy rates, market rents, and the utilization of Section 8 vouchers; and
- (5) the selection standards in part 4900.3765 and the funding priorities in part 4900.3766.

If the agency does not approve an extension of funding for an administrator, the administrator shall give written notice to all participating tenants and landlords that the rental subsidies will end. This notice must be given no fewer than six months before the rental subsidy will end.

APPLICATION. Minnesota Rules, parts 4900.3700 to 4700.3769, apply to housing developments that are awarded funding under the housing trust fund program on or after the effective date of final adoption of these rules.

REPEALER. Minnesota Rules, parts 4900.1920; 4900.1921; 4900.1922; 4900.1923; and 4900.1924, are repealed.

Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

Expedited and Emergency Expedited Rules

Provisions for the Commissioner of Natural Resources to adopt emergency expedited Game and Fish Rules are specified in *Minnesota Statutes* §§ 84.027. The commissioner may adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months.

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Governing the Minnesota Urban and Rural Homesteading Program

The rules proposed and published at *State Register*, Volume 26, Number 11, pages 294-296, September 4, 2001 (26 SR 294), are adopted as proposed.

Commissioners' Orders

Various agency commissioners are authorized to issue "commissioner's orders" on specified activities governed by their agency's enabling laws. See the *Minnesota Statutes* governing each agency to determine the specific applicable statutes. Commissioners' orders are approved by assistant attorneys general as to form and execution and published in the *State Register*. These commissioners' orders are compiled in the year-end subject matter index for each volume of the *State Register*.

Minnesota Public Utilities Commission

Orders Scheduling Prehearing Conference

In the Matter of the Application of Rapids Power LLC for a Certificate of Need for its Grand Rapids Cogeneration Project, PUC Docket No. IP-4/CN-01-1306.

On November 19, 2001, the Minnesota Public Utilities Commission issued its Order Accepting Filing as Substantially Complete and Notice and Order for Hearing. The commission ordered that a prehearing conference be held "as soon as practical after January 1, 2002."

A prehearing conference in this matter will be held on Wednesday, January 16, 2002, at 9:30 a.m. in the Commission's small hearing room. Persons unable to attend in person will be accommodated by telephone. However, there are only a limited number of persons who can be accommodated by telephone, so like-minded groups of citizens or others should agree on one or two persons as their representatives to participate in the conference. These representatives may obtain instructions for participating in the conference by telephoning the Administrative Law Judge at (612) 341-7609 anytime prior to January 16.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Commissioner's Orders

The purpose of the prehearing conference will be to discuss scheduling, discovery procedures, prefiled testimony, and similar planning matters.

So far, the only formal parties to the case are Rapids Power and the Department of Commerce. Persons need not be formal parties in order to participate in the prehearing conference. However, concerned individuals should begin aligning themselves with like-minded persons and consider petitioning to intervene together as a formal party. So far, there is no deadline for petitioning to intervene. But one of the topics for discussion at the prehearing conference will be establishing a deadline for intervention petitions.

ORDER

1. A prehearing conference in this matter will commence at 9:30 a.m. on Wednesday, January 16, 2002, in the Commission's small hearing room. The Commission's offices are located at 121 7th Place East, Suite 350, St. Paul, MN 55101. Persons unable to attend the prehearing conference in person should contact the Administrative Law Judge for instructions on telephonic participation.

Dated this 4th day of December 2001

Allan W. Klein
Administrative Law Judge

Official Notices

Pursuant to Minnesota Statutes §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Minnesota Agricultural and Economic Development Board

Notice of Public Hearing on Proposed Project and the Issuance of Bonds Under *Minnesota Statutes* 1986, Chapter 116M and *Minnesota Statutes*, Chapter 41A

NOTICE IS HEREBY GIVEN that the Minnesota Agricultural and Economic Development Board (the "Board") or its designated representative, shall meet on January 15, 2002, at 9:00 a.m. o'clock, at 500 Metro Square, 121 7th Place East, St. Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of one or more series of bonds (the "Bonds") and the provision of other financial assistance under *Minnesota Statutes* 1986, Chapter 116M, and *Minnesota Statutes*, Chapter 41A, as amended (the "Act"), to undertake and finance a project on behalf The Evangelical Lutheran Good Samaritan Society, a North Dakota nonprofit corporation (the "Applicant"). Such persons as desire to be heard with reference to said issue of Bonds will be heard at this public hearing.

The project to be financed consists of the financing of acquisition, construction and equipping and the refinancing of existing debt, debt incurred or assumed in connection with the purchase of nursing homes, senior housing, assisted living and related facilities (the "Project") at the following locations and in an amount not to exceed \$25,000,000 at the following: (i) Comforcare Good Samaritan Center, a 45-bed Skilled Nursing Home located at 205 14th Street NW, Austin, MN 55912 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (ii) Barnesville Good Samaritan Center, a 68-bed Skilled Nursing Home located at 600 5th St SE, Barnesville, MN 56514-0129 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (iii) Battle Lake Good Samaritan Center, a 65-bed Skilled Nursing Home located at 105 Glenhaven Dr., Battle Lake, MN 56515-4010 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (iv) Hoffman

Good Samaritan Center, a 54-bed Skilled Nursing Home located at 104 Sixth St., Hoffman, MN 56339-0337 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (v) Howard Lake Good Samaritan Center, a 60-bed Skilled Nursing Home located at 413 13th Ave., Howard Lake, MN 55349-0316 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (vi) Inver Grove Good Samaritan Center, a 76-bed Skilled Nursing Home located at 1301 50th St E., Inver Grove Heights, MN 55077-1252 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (vii) Falls Good Samaritan Center, a 101-bed Skilled Nursing Home located at 1402 Hwy 71, International Falls, MN 56649-2186 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (viii) Jackson Good Samaritan Center, a 89-bed Assisted Living Home located at 601 West St., Jackson, MN 56143-1298 consisting of funds to purchase the facility and construction, renovation and equipping the facility; (ix) Pipestone Good Samaritan Village, a 155-bed Skilled Nursing Home located at 1311 N Hiawatha Ave., Pipestone, MN 56164-2200 consisting of construction, renovation and equipping the facility; (x) Preston Good Samaritan Center, a 79-bed Skilled Nursing Home located at 608 Winona St NW, Preston, MN 55965-0607 consisting of construction, renovation and equipping the facility; (xi) Roseville Good Samaritan Center, a 133-bed Skilled Nursing Home located at 1415 County Rd B W, Roseville, MN 55113-4251 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (xii) Grandview Good Samaritan Center, a 60-bed Skilled Nursing Home located at 830 N Sunrise Dr., St. Peter, MN 56082-1203 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (xiii) Stillwater Good Samaritan Center, a 132-bed Skilled Nursing Home located at 1119 Owens St. N., Stillwater, MN 55082-4399 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (xiv) Waterville Good Samaritan Center, a 56-bed Skilled Nursing Home located at 205 1st St N., Waterville, MN 59069-1199 consisting of refinancing existing debt incurred to purchase the nursing home and construction, renovation and equipping the facility; (xv) Westbrook Good Samaritan Center, a 49-bed Skilled Nursing Home located at 149 1st Ave., Westbrook, MN 56183-0218 consisting of construction, renovation and equipping the facility; and (xvi) Good Samaritan Communities of Windom, a 91-bed Skilled Nursing Home located at 705 6th St., Windom, MN 56101-1814 consisting of construction, renovation and equipping the facility.

The initial owner of the Project is the Applicant and the Project will be owned, operated and managed by the Applicant. It is contemplated that the Project will be used as nursing homes, senior housing, assisted living or related facilities. The total estimated amount of the Board's proposed bond issues is an amount not to exceed \$25,000,000. The Bonds shall be limited obligations of the Board, the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, and a mortgage or security interest or other security arrangements to be established by or on behalf of the Applicant. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

This Notice of Public Hearing is being given pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended.

A copy of the Application to the Board for approval of the Project, together with all attachments and exhibits thereto and a copy of the Board's resolution accepting the Application and accepting the Project is available for public inspection at the offices of the Board at 500 Metro Square, 121 7th Place East, Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director prior to the date of the hearing set forth above.

NOTICE IS HEREBY GIVEN that the Minnesota Agricultural and Economic Development Board or its designated representative will also conduct a public hearing to develop criteria as required by *Minnesota Statutes* 116J.993, Subd. 2. This hearing will provide interested people and organizations with an opportunity to comment on the business subsidy agreement with the Applicant.

Dated: 12 December 2001

BY ORDER OF THE MEMBERS OF
THE MINNESOTA AGRICULTURAL
AND ECONOMIC DEVELOPMENT BOARD
Paul A. Moe
Executive Director
Minnesota Agricultural and Economic Development Board

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C

NOTICE IS HEREBY GIVEN that a public hearing will be held on January 7, 2002, at 9 a.m., in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, St. Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of approximately 160 acres of bare farmland located 3 miles east from Ward, SD on Co. Hrdtop #10, then 1-1/2 north on Gravel in the NE 1/4 of Section 8, T. 108 N, R 46 W, Pipestone County, Minnesota on behalf of Craig and Jacqueline Otkin, (the Borrower/s). The maximum aggregate face amount of the proposed bond issue is \$85,000.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenue specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of the interest of such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 5 December 2001

Jim Boerboom
RFA Director

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C

NOTICE IS HEREBY GIVEN that a public hearing will be held on January 7, 2002, at 9 a.m., in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, St. Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of approximately 75 acres of bare farmland located: Take Highway 4 North of Estherville, IA 1 mile north of Minnesota-Iowa state line, west 1 mile on 20th Street, corner of 20th Street and 40th Avenue; E 1/2 of the SE 1/4 of Section 28, Township 101 N, Range 33 W, Martin County, Minnesota on behalf of Taylor Lee Forsberg, (the Borrower/s). The maximum aggregate face amount of the proposed bond issue is \$148,750.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of the interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 5 December 2001

Jim Boerboom
RFA Director

Emergency Medical Services Regulatory Board

Notice of Completed Application In the Matter of the License Application of the Granite Falls Area Health Services Ambulance, Granite Falls, Minnesota

PLEASE TAKE NOTICE that the Emergency Medical Services Regulatory Board (hereinafter EMSRB) has received a completed application from the Granite Falls Area Health Services Ambulance, Granite Falls, Minnesota, for a new license, advanced ambulance - part time.

NOTICE IS HEREBY GIVEN that, pursuant to *Minnesota Statutes* Sec. 144E.11, subd. 3, each municipality, county, community health board, governing body of a regional emergency medical services system, ambulance service and other person wishing to make recommendations concerning the disposition of the application, shall make written recommendations or comments opposing the application to the EMSRB within 30 days or by January 24, 2002, 4:30 p.m.

Written recommendations or comments opposing the application should be sent to: Mary Hedges, Executive Director, EMSRB, 2829 University Avenue S.E., Suite 310, Minneapolis, Minnesota 55414-3222.

If fewer than six comments opposing the application are received during the comment period, and the EMSRB approves the application, the applicant will be exempt from a contested case hearing, pursuant to *Minnesota Statutes* Sec. 144E.11, subd. 4. If six or more comments in opposition to the application are received during the comment period or the EMSRB denies the application, the applicant may immediately request a contested case hearing, or may try to resolve the objections of the public and/or the EMSRB within 30 days, pursuant to *Minnesota Statutes* Sec. 144E.11, sub. 5(a), (b). If the applicant is unable to resolve the objections within 30 days, or if the applicant initially requests a contested case hearing will be scheduled and notice of the hearing given pursuant to *Minnesota Statutes* Sec. 144E.11, subd. 5(c), (e).

Dated: 17 December 2001

Mary F. Hedges
Executive Director

Department of Human Services

Notice of Availability of the Minnesota Health Care Programs Provider Participation List [Also known as DHS Rule 101 Provider Compliance List]

Notice is hereby given that the Minnesota Health Care Programs provider participation list for December 1, 2001 is now available. The provider participation list is a compilation of health care providers who are in compliance with DHS Rule 101. If a provider name is not on the list, the Department considers the provider non-compliant. The list of providers is separated by provider type, each section is in alphabetical order by provider name, and there is no additional information on the list other than the provider's name. This list is distributed on a quarterly basis to the Department of Employee Relations, the Department of Labor and Industry, and the Department of Commerce. To obtain the list, contact Kelly Crawford, Rule 101 specialist, **phone** at: (651) 296-0766 or toll-free at 1-800-657-3991. You may **fax** your request to (651) 296-5690 or mail to the Customer Services Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3856.

Michael O'Keefe, Commissioner
Department of Human Services

Department of Human Services

Continuing Care for Persons with Disabilities — Adult Mental Health Division

Public Notice of Medical Assistance Adult Mental Health Rehabilitative Services and Rates

NOTICE IS HEREBY GIVEN to recipients, providers of services under the Medical Assistance (MA) Program, and to the public of new MA Program adult mental health rehabilitative services and rates. This notice is published pursuant to 42 *Code of Federal Regulations* 447.205, which requires public notice of significant proposed changes in methods and standards for setting payment rates for MA services.

Official Notices

Laws of Minnesota 2001, First Special Session, chapter 9, article 9, sections 39 and 40 (new *Minnesota Statutes*, sections 256B.0623 and 256B.0624) require that as of January 1, 2002, the Department add two adult mental health rehabilitative services to the MA Program.

1. Medical Assistance Mental Health Community Support Services.

Mental health community support services will be comprised of three components: 1) basic living and social skills, 2) consultation with people significant to a recipient; and 3) medication education. Basic living and social skills include communication skills, budgeting and shopping skills, health lifestyle skills, household management skills, transportation skills, medication monitoring, and crisis assistance skills.

Entities certified by the Department and operated by counties, and entities (non-profits and community mental health centers) certified by counties will be eligible to receive payment for providing mental health community support services. Providers for basic living and social skills, and consultation services, will be mental health professionals, mental health practitioners and a new type of adult rehabilitation provider, mental health rehabilitation workers. Physicians, pharmacists and registered nurses, who will be employees or contractors of certified entities, will provide medication education.

The Department anticipates that the payment rates will be as follows:

- **Basic living and social skills:**

- for mental health professionals or mental health practitioners, the lower of the submitted charge or \$18.00 per 30 minute unit
- for mental health rehabilitation workers, the lower of the submitted charge or \$13.50 per 30 minute unit
- in a group setting (two to 10 people), regardless of provider, the lower of the submitted charge or \$11.00 per 30 minute unit

- **Consultation services:**

- for mental health professionals or mental health practitioners, the lower of the submitted charge or \$9.00 per 15 minute unit
- for mental health rehabilitation workers, the lower of the submitted charge or \$6.75 per 15 minute unit

- **Medication education:**

- the lower of the submitted charge or \$10.00 per 15 minute unit
- in a group setting (two to 10 people), the lower of the submitted charge or \$6.50 per 15 minute unit

2. Medical Assistance Mental Health Crisis Response Services.

Mental health crisis response services will be comprised of four components: 1) crisis assessment; 2) crisis intervention; 3) crisis stabilization; and 4) consultation with people significant to a recipient.

Entities operated by or under contract to a county in the county where the crisis occurs will be eligible to receive payment for providing mental health crisis response services. In most cases, providers for these services will be mental health professionals, mental health practitioners, and mental health rehabilitation workers.

The Department anticipates that the payment rates will be as follows:

- **Crisis assessment:**

- for doctoral prepared mental health professionals, the lower of the submitted charge or \$32.50 per 15 minute unit
- for master's prepared mental health professionals, the lower of the submitted charge or \$26.00 per 15 minute unit
- for mental health practitioners supervised by doctoral prepared mental health professionals, the lower of the submitted charge or \$16.25 per 15 minute unit
- for mental health practitioners supervised by master's prepared mental health professionals, the lower of the submitted charge or \$13.00 per 15 minute unit

- **Crisis intervention:**

- for doctoral prepared mental health professionals, the lower of the submitted charge or \$47.50 per 30 minute unit
- for master's prepared mental health professionals, the lower of the submitted charge or \$38.00 per 30 minute unit
- for mental health practitioners supervised by doctoral prepared mental health professionals, the lower of the submitted charge or \$23.75 per 30 minute unit

- for mental health practitioners supervised by master's prepared mental health professionals, the lower of the submitted charge or \$19.00 per 30 minute unit
- **Crisis stabilization:**
 - for mental health professionals or mental health practitioners, the lower of the submitted charge or \$19.50 per 30 minute unit
 - for mental health rehabilitation workers, the lower of the submitted charge or \$14.62 per 30 minute unit
 - in a group setting (two to 10 people), regardless of provider, the lower of the submitted charge or \$11.00 per 30 minute unit
- **Consultation services:**
 - for mental health professionals or mental health practitioners, the lower of the submitted charge or \$9.00 per 15 minute unit
 - for mental health rehabilitation workers, the lower of the submitted charge or \$6.75 per 15 minute unit

Pursuant to 42 *Code of Federal Regulations* 447.205(c)(5), the Department must provide an address where written comments may be sent and reviewed by the public. Written comments and requests for information (including the full text of the proposed services and rates) may be sent to:

Richard Seurer
Adult Mental Health Division
Minnesota Department of Human Services
444 Lafayette Road North
St. Paul, Minnesota 55155-3872
Phone: (651) 582-1966

Department of Labor and Industry

Labor Standards Unit

Notice of Correction to Commercial Prevailing Wage Rates

A correction has been made to the Commercial Prevailing Wage Rates certified 12/18/00, for **Labor Code 422, Sprinkler Fitters, in Benton County.**

Copies of the certified wage rates for these Counties may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road North, St. Paul, Minnesota 55155-4306, or by calling (651) 284-5091. Charges for the cost of copying and mailing are \$.65 per page. Make check or money order payable to the State of Minnesota.

Shirley I. Chase
Commissioner

Metropolitan Council

Public Hearing on the Empire Wastewater Treatment Plan Expansion and Effluent Outfall Facility Plan

Rosemount Community Center Auditorium, 13885 South Robert Trail, Rosemount, Tuesday, January 29, 2002, 7:00 p.m.

Metropolitan Council will hold a public hearing on the Empire Wastewater Treatment Plant and Effluent Outfall Facility Plan, MCES Project No. 800900. The public hearing outlines the expansion of the Empire Wastewater Treatment Plant (WWTP) and the alignment of the outfall pipe from the plant to the Mississippi River. The Empire WWTP serves Lakeville, Farmington, and parts of Apple Valley and Empire Township. The proposed effluent outfall pipe will run north from the plant on Biscayne Ave. to County Road 24, east on Co. Rd. 42 to the west side of Highway 52, cross under Hwy 52 and head north to 140th Street, proceed along 140th Street and then northeast towards the Mississippi River east of Kock Refiner.

Official Notices

Metropolitan Council Environmental Services has prepared a draft Facility Plan for the Empire WWTP and the 13.1 mile long outfall pipe to the Mississippi River.

Copies of the Draft Facility Plan are available for review at:

- Metropolitan Council's Data Center, 230 East Fifth Street, St. Paul
- Apple Valley City Hall, 14200 Cedar Ave, Apple Valley
- Empire Township Town Hall, 3385 197th St., Farmington
- Farmington City Hall, 325 Oak St., Farmington
- Lakeville City Hall, 20195 Holyoke Ave., Lakeville
- Rosemount City Hall, 2875 145th St. W., Rosemount
- Galaxie Library, 14955 Galaxie Ave., Apple Valley
- Farmington Library, 508 Third Street, Farmington
- Pleasant Hill Library, 1490 South Frontage Road, Hastings

All interested persons are encouraged to attend the hearing and provide comments. Comments, which must be received by Pauline Langsdorf prior to February 11, 2002, may also be submitted as follows:

- Send written comments to: Pauline Langsdorf at Metropolitan Council Environmental Service, 230 East Fifth Street, St. Paul, MN 55101
- **Fax** comments to Pauline Langsdorf at (651) 602-1003
- Record comments on the Council's Public Comment Line at (651) 602-1500
- **Email** comments to data.center@metc.state.mn.us
- Sent **TTY** comments to (651) 291-0904

Upon request the Council will provide reasonable accommodations to persons with disabilities. These requests must be received prior to January 22, 2002.

Board of Nursing

Notice of Meeting of the Minnesota Board of Nursing

NOTICE IS HEREBY GIVEN that the 2002 meetings of the Minnesota Board of Nursing have been scheduled at 9:00 a.m., at 2829 University Avenue SE, Suite 500, Minneapolis, Minnesota on the following dates:

February 7-8, 2002

April 4-5, 2002

June 6-7, 2002

August 1-2, 2002

October 3-4, 2002

December 5-6, 2002

A portion of each meeting is review of disciplinary cases and is closed to the public. For details about time of the open meeting, the agenda or other information, please **phone:** (612) 617-2297.

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Human Services Health Care Purchasing and Service Delivery

Correction to Eligible Enrollee Numbers

Notice of Request for Proposal from Prepaid Health Plans for Minnesota Health Care Program Recipients Published on December 3, 2001.

The estimated number of eligible enrollees printed in the December 3, 2001 *State Register* was in error. The corrected number of eligible enrollees in the seven county metro area as of December 2001 is:

MA:	125,539
GAMC:	9,976
MinnesotaCare:	53,550
Total:	189,068

Prospective respondents with any questions may contact Mary Freeberg at **phone:** (651) 297-7968 or **email:** Mary.E.Freeberg@state.mn.us

State Contracts

Informal Solicitations

Effective December 1, 2001, informal solicitations for all contracting opportunities for professional/technical (consultant) contracts with values estimated to be over \$5,000 and under \$50,000 must be posted on the Department of Administration's, Materials Management Division's web page (www.mmd.admin.state.mn.us).

Formal Requests for Proposals

Department of Administration procedures require that formal notice of any professional/technical (consultant service) contract which has an estimated value over \$50,000 must be printed in the *State Register*. Certain quasi-state agencies and Minnesota State Colleges and Universities institutions are by law exempt from these requirements.

Department of Administration

Request for Proposals for Hot Site/Cold Site Computer Recover Facility

- Request for Proposal (RFP) for: Hot Site / Cold Site Computer Recovery Facilities.
- There will be a pre-proposal / responders conference on January 10, 2002 at 9:00 a.m., in Conference Room #100, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155.
- Questions concerning the RFP terms and conditions or technical requirements must be sent to the Acquisition Management Specialist (AMS) listed in the RFP by January 4, 2002.
- **Final Proposals are due on April 5, 2002, at 3:00 p.m. CDT.**

NOTE: Late proposals will not be accepted. Responders are responsible to see that their responses are date and time stamped, by the receiving receptionist, **no later than 3:00 p.m.**

State Contracts

Contact the **Materials Management Division:**

50 Sherburne Ave.
Suite #112
St. Paul, MN 55155
Phone: (651) 296-2600
Fax: (651) 651-297-3996

to request a copy of the complete Request for Proposal.

Minnesota Historical Society

Notice of Request for Proposals for Educational Program Development for the North West Company Fur Post Historic Site

The Minnesota Historical Society (Society) is seeking an educational consultant (or consulting firm) to develop educational programs for school groups visiting the North West Company Fur Post Historic Site, near Pine City. These programs will meet the needs of the site's core student audience and include a variety of interdisciplinary, hands-on activities that support both the site's interpretive messages and state content frameworks for the elementary grades.

Proposals must be received **no later than 2:00 p.m., Central Time, Friday, January 18, 2002.**

The Request for Proposals is available by calling or writing Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102. **Phone:** (651) 297-5863 or email: chris.bonnell@mnhs.org

Dated: 24 December 2001

Minnesota Historical Society

Notice of Request for Proposals for the Mill City Museum Exhibit Water Lab Interactive Water Tables

The Minnesota Historical Society (Society) is seeking proposals from qualified firms and individuals to provide engineering, design, fabrication and installation services for the infrastructures required for four interactive water features in the Mill City Museum hand-on exhibit water lab. The water lab will be the place where visitors are able to manipulate working models of St. Anthony Falls and the Mississippi River to see how the choices made by industrialist and others have affected the ecology of Minnesota and the surrounding region. The new Mill City Museum is currently under construction with a completion date anticipated in late 2002.

A mandatory pre-proposal meeting will be held on Thursday, January 3, 2002, at from 9:00 - 11:00 a.m., at the MHS production shop located at 1500 Mississippi Street, St. Paul, Minnesota.

Proposals must be submitted in the format provided for in the Request for Proposals. Proposals must be received **no later than 2:00 p.m., Central Time, Wednesday, January 16, 2002.**

The Request for Proposals is available by calling or writing Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102. **Phone:** (651) 297-5863 or **email:** chris.bonnell@mnhs.org

Dated: 24 December 2001

Minneapolis, Minnesota

Minnesota Department of Transportation

Program Support Division

Office of Consultant Services

Notice of Availability of Contract for Engineering Services

The Minnesota Department of Transportation (Mn/DOT) is requesting proposals from Contractors who are qualified to provide engineering services (preliminary engineering, geotechnical investigation, final design, right of way acquisition, project management) for improvements along Trunk Highway (T.H.) 371. The project will be located on a 16.5 mile segment of T.H. 371 in northern Crow Wing County and central Cass County that extends from Nisswa to Pine River. The project involves the reconstruction and capacity expansion of T.H. 371 and includes grading, surfacing, drainage work, and bridge construction.

Work is proposed to start after February 1, 2002.

The Request for Proposal will be available by mail from this office through January 4, 2002. **A written request (direct mail or fax) or an email request is required to receive the Request for Proposal.** After January 4, 2002, the Request for Proposal must be picked up in person.

This document is available in alternative formats for persons with disabilities by calling the Agreement Administrator, Jim Ciabattari at **phone:** (651) 296-9930, or for persons who are hearing or speech impaired by calling the Minnesota Relay Service at **TTY:** 1-800-627-3529.

The Request for Proposal can be obtained from the Agreement Administrator:

Jim Ciabattari, P.E.
Office of Consultant Services - 7th Floor North
Minnesota Department of Transportation
395 John Ireland Boulevard, MailStop 680
St. Paul, MN 55155
Fax: (651) 282-5127
Email: jim.ciabattari@dot.state.mn.us

Proposals in response to the Request for Proposals in this advertisement must be received at the above address **no later than 2:00 p.m., CST on January 15, 2002. Late proposals will not be considered.**

This request does not obligate the State of Minnesota Department of Transportation to complete the work contemplated in this notice, and the Department reserves the right to cancel this solicitation. All expenses incurred in responding to this notice shall be borne by the responder. All proposals will become public information after the contract is awarded, under the Minnesota Data Practices Act, and will remain the property of the Minnesota Department of Transportation.

Non-State Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

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