Exhibit No.
File No.
Date

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing the Community Energy Planning Grants Program, 6MCAR §§ 2.2401-2.2409.

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

In its 1980 session, the Minnesota Legislature passed Chapter 579 Sec. 7 (codified as Minn. Stat. Sec. 116H.089) which addressed the provision of grants and assistance for community energy planning to be administered by the Minnesota Energy Agency ("Agency").

The purpose of this law is to begin to address the gamut of energy issues that cities and counties presently encounter, and likely will continue to encounter in both the near and distant future. To pursue this purpose, the law provides for the development of a Community Energy Planning Grants Program. The specified intent of the law is to improve the energy planning capabilities of local governments. To this end the Agency shall make grants to counties and cities, however organized.

The Statement of Need and Reasonableness contained herein will illustrate the manner in which the Minnesota Energy Agency will provide state assistance to cities and counties. The rules are written in such a way as to not prohibit the integration of Community Energy Planning programs with other State and Federal planning assistance programs.

On October 6, 1980 a Notice of Intent to Solict Outside Opinion Concerning Rules Governing the Administration and Distribution of Community Energy Planning Grants was published in the State Register at 5 S.R. 590. This notice allowed for comments to be received until November 21, 1980, inclusive. All comments which were received as a result of that notice have been considered, and where appropriate, incorporated in the promulgation of these rules.

In order to provide for extensive input into the development of these program rules, the Agency formed the Community Energy Planning Panel. This panel included representatives from many of the groups who could be affected by this program. The following people with their affiliations participated in the activities of the Community Energy Planning Panel.

Dennis Welsch	Minnesota Planning Association President, City of Red Wing Planning Coordinator
Ted Mueller	Minnesota Rural Electric Association
Jim Wright	Minnesota Department of Transportation
Craig Waldron	Region Nine Development Commission
John Kari	Metropolitan Council
James Fisher	Urban Technology Exchange
Tracy Godfrey	Minnesota Department of Economic Development
Karl Nollenberger	City of Richfield, Minnesota City Manager
James Pomeroy	City of Winona, Minnesota Transit Coordinator
William Maher	Chairman, Blue Earth County Board
Gilbert Kapsner	Chairman, Morrison County Board
Ms. Carol Carlson	City of Champlin, Minnesota Administrative Assistant
Tim Ruhn	City of Eden Valley, Minnesota City Coordinator

This advisory committee has met regularly since October to discuss the intent of this program and how the rules can be applied systematically to applicants throughout the State.

The responsibilities of this panel were divided into categories: 1) General Responsibilities and 2) Specific Responsibilities.

General responsibilities were:

1. To become familiar with the history and problems associated with community energy planning;

2. To know and understand the duties and responsibilities of the Consultant and State staff;

3. To attend and participate in scheduled Panel meetings and serve on subcommittees as may be appropriate;

4. To evaluate and encourage intergovernmental relationships which may better serve the goal of Comprehensive Community Energy Planning.

The more specific responsibilities included:

1. To provide input and recommendations to state staff on policies and procedures relating to delivering Community Energy Planning Grants;

2. To assist in making recommendations on establishing priorities for the grant program;

3. To provide leadership, expertise and experience in specific areas of community energy planning;

4. To evaluate, with staff assistance, current community-related energy programs and make recommendations on how programs and services might be improved.

RULES

The format used in preparing this Statement of Need and Reasonableness is as follows: each rule is stated and underlined; it is then followed by an explanation of the intent of the proposed rule and the need for the proposed rule.

6MCAR § 2.2401. Authority and purpose.

A. Authority.

Rules 6 MCAR §§ 2.2401-2.2409 implementing the Community Energy Planning Grants Program are promulgated by the agency pursuant to Minn. Stat. sec. 116H.089 (1980).

This section is necessary to indicate the statutory authority and requirement for promulgating these rules.

B. Purpose.

It is the purpose of the Community Energy Planning Grants Program to improve the energy planning capabilities of local governments, to conserve traditional energy sources, to develop renewable energy systems and to broaden community involvement in the energy planning process. These rules set forth criteria and procedures for providing state assistance to counties and cities, however organized.

This section is necessary to indicate to the interested parties the reason for the promulgation of these rules and the purpose of the program to which they apply. The language expresses the purpose of the program as discussed above in the introduction to this Statement of Need and Reasonableness.

C. Limitation.

No more than forty-five percent (45%) of the amount appropriated for Community Energy Planning Grants shall be distributed to counties and cities within the seven-county metropolitan area defined in Minn. Stat. § 473.121, subd. 2 (1980).

This rule is needed to indicate that a maximum portion of any funds appropriated for this program will be made available to eligible applicants within the seven-county metropolitan area. The 45% limitation is stated directly in subdivision 1 of Section 116H.089.

6 MCAR § 2.2402. Definitions.

The following terms used in these rules shall have the following meanings.

A. "Agency" means the Minnesota Energy Agency.

The term "Agency" means the Minnesota Energy Agency as provided in sections 116H.01 to 116H.15.

This definition is necessary in order to identify the state agency that has been charged with the responsibility to promulgate rules for this program and to administer state assistance.

B. "Local unit of government" means a city, a county or a combination of such units. A city of the first class may apply for a grant to assist a neighborhood organization to do energy-related planning and implementation activities.

This definition is necessary to indicate which units of government are eligible to apply for grants to be used to assist in developing local energy plans. Cities, counties and neighborhood organizations are all specified in the legislation as eligible recipients.

C. "Neighborhood organizations" means those organizations recognized by the city government for planning and development purposes in areas whose boundaries are officially determined by the city.

It is reasonable to allow cities of the first class to undertake neighborhood facilities based on specific boundaries recognized by the city.

D. "Clearinghouse" means that governmental unit which has authority to review requests for state and federal aid for local units of government within its jurisdiction.

In the seven-county metropolitan area this review authority is the Metropolitan Council under Minn. Stat. § 473.171, subd. 2 (1980).

The review authority for the remainder of the state is the appropriate Regional Development Commission under Minn. Stat. § 462.391, subd. 3 (1980).

This definition is needed in order to indicate by whom the necessary reviews can be completed to meet the requirements of other state laws. This requirement of having a clearinghouse review is designed to help minimize duplication of effort and improve the quality of the applications so that the maximum benefit is received for each program dollar expended.

E. "In-kind" means:

1. Salary and cost of fringe benefits of the grant recipient staff working on activities funded by the grant.
2. Increases in overhead resulting from carrying out activities funded by the grant.

This definition inludes two forms of contribution that the local unit of government can make to the activities funded by a grant. Because "in-kind" contribution by the local unit of government is permitted it is reasonable to allow this to take the form of paying salary and fringe benefits or payment of increases in overhead which result from activities being carried out under the terms of a grant.

6 MCAR § 2.2403. Types of grants.

There shall be two types of grants made to local units of government: Community Energy Planning Grants and Community Energy Plan Implementation Grants.

Section 116H.089 provides an array of qualifying expenditures which when evaluated and categorized could be grouped into two categories, planning functions and implementation functions. It is reasonable then to provide for two types of grants which are intended to fulfill two distinct purposes. Those purposes are 1) the evaluation of energy-related problems and the development of policies, strategies and or plans addressing those community energy problems, and 2) the implementation of plans, programs, strategies by capital investment which are intended to solve or ameliorate the local energy problems.

A. Community Energy Planning Grants.

Planning Grants shall be used for developing local energy plans relating to such issues as, but not limited to: citywide or countywide conservation; use of renewable resources through technologies currently available, conservation of energy used in buildings owned by the local unit of government, of energy used for building and street lighting, and of energy used in building space heating and cooling; and energy considerations in traffic management, in land use planning, in capital improvement programming/budgeting, in municipal operating budgets, and in economic development plans.

In order to improve the energy planning capability of local units of government it will be necessary for the local units of government to address a wide variety of energy producing, consuming and conservation-related activities. A comprehensive energy planning process or program is intended to examine issues relating to excessive consumption and/or lack of conservation and the inability of local energy consumers to use locally available renewable resources or the unit of government's inability to develop a component to their comprehensive plan which accurately addresses the myriad of energy-related issues, such as, capital improvement programming/budgeting, solar access, or subdivision design. It is reasonable then to allow grant activities which are designed to provide information that will allow strategies or plans to be developed which aid the unit of government in citywide or countywide conservation, use of renewables, land use planning as related to energy, traffic management, capital improvement programming/budgeting, operating budgets and economic development within the community.

B. Community Energy Plan Implementation Grants.

Implementation Grants shall be used for purposes of implementing all or portions of a local community energy

plan. Local units of government may apply for implementation grants whether or not the community energy plan was prepared under the Community Energy Planning Grant Program, provided the community energy plan has been submitted to and approved by the Agency.

Chapter 579, Sec. 7, specifically states in subdivision 2 that grants may be made to implement comprehensive energy plans to undertake the management of problems resulting from 1) rising energy costs; 2) lack of efficient public and private transportation; 3) lack of community conservation efforts; 4) lack of widespread renewable energy sources; and 5) lack of energy components in comprehensive plans and local ordinances. The statute also authorizes grants for any other purposes deemed appropriate by the director of the Agency.

The requirement of Agency review of a community energy plan which wasn't prepared with Community Energy Planning grant funds is needed and reasonable so the Agency can be assured that the MEA and the grantee are receiving the greatest benefit for the dollars granted to local units of government. The intent of the Agency is to examine the local unit of government's analysis of its energy problem to see if the implementation grant program proposed accurately addresses the problems identified in the planning process.

C. The following activities or expenditures are eligible for Planning Grants:

1. Planning staff personnel, salaries, or benefits;
2. Data collection or analysis or both;
3. Development of local energy documents including plans;
4. Modification of capital improvement programs for energy-related projects;
5. Development of energy-conscious fleet management systems, transportation plan, intergovernmental plans;

6. Development of budgetary of fiscal systems which significantly address energy costs;

7. Development of zoning, subdivision and building codes for supplements or amendments relating to energy;

8. Housing code development for energy-related elements;

9. Any other activities which carry out the purpose of the program as expressed in rule 2.2401 B.

This section is needed to inform potential applicants which activities or types of activities are allowable for expenditure of grant funds under this program. The items listed in the rule individually or collectively represent the various elements, activities or expenditures which would be necessary to develop a partial or complete community energy plan. Because the purpose of this grants program is to improve the energy planning capabilities of local governments it is reasonable to allow communities to expend grant monies on activities which are directly related to the development of energy plans.

The provision for allowing "Any other activities which carry out the purpose of the program as expressed in rule 2.2401 B. "reflects the flexibility and discretion allowed to the Agency and grant applicants in subdivision 2(e) of the laws. This provision of the rule allows for a reasonable amount of flexibility within the limitations of the program's express purposes to permit the Director to fund planning grants which show significant innovation and potential benefit but which may not meet the standard guidelines for the program.

D. The following activities or expenditures are ineligible for Planning Grants:

1. Non-energy related issues;

2. Repayment of revenue to local units of government for energy activities previously undertaken;

3. Out-of-state travel, unless specifically approved in a contract between the grantee and the agency.

The above-stated restrictions are needed to indicate for what activities expenditures of planning grant monies will not be permitted. Expenditure of grant money on non-energy related issues should not be permitted because the purpose of the program is to improve the energy planning capability of local units of government. The expenditure of funds on non-energy related issues would not help attain the purposes of the enabling legislation.

The program is also not intended to reimburse a community for activities that have been previously undertaken. The receipt of a planning grant may incidentally reassure a community that prior activities were wisely undertaken, but the community should not reimburse itself for those activities. Rather, the receipt of a planning grant should be understood to be an opportunity to improve capabilities in areas where little or no effort has previously been expended.

The rules prohibiting out-of-state travel unless approved in the grant contract is needed to help insure that the maximum benefit is derived locally from the grant expenditure. After prior consultation between the grantee and the Agency, the Agency may be convinced that the expenditure of grant funds for out-of-state travel would significantly benefit the community and could at that time approve such an expenditure. This rule is reasonable because it does not totally prohibit this type of expenditure while at the same time discouraging an activity that may have marginal impact locally. In addition, limitation on out-of-state travel may encourage useful communication between local units of government within the State of Minnesota.

E. The following activities or expenditures are eligible for Implementation Grants:

1. Detailed drawings, architectural drawings, site designs, engineering specifications;

2. Equipment purchases directly affecting energy recovery conservation or production;

3. Construction of energy production or energy recovery systems;

4. Any other activities which carry out the purpose of the program as expressed in rule 2.2401 B.

This section of the rules is needed to inform potential applicants of the activities or types of activities that are allowable expenditures under the rules of this program. The items listed in the rule individually or collectively represent the types of expenditures that would implement all or portions of an implementation grant. Specific projects will require significant technical work and detail to bring them to a successful completion. If a particular project is identified as an essential component of a comprehensive energy plan it is reasonable then to allow expenditure of grant funds to achieve the purpose of the plan.

The provision for allowing "Any other activities which carry out the purpose of the program as expressed in rule 2.2401 B. "reflects the flexibility and discretion allowed to the Agency and grant applicants by subdivision 2(e) of the law. This rule allows for a reasonable amount of flexibility within the limitations of the program's express purposes to permit the Director to fund implementation grants which show significant innovation and potential community-wide benefit but which may not meet the standard guidelines for the program.

F. The following activities or expenditures are ineligible for Implementation Grants:

1. Non-energy related projects;

2. Property acquisition (real property);

3. Personnel for continued operation of energy conservation production or recovery facilities beyond the first year of an Implementation Grant.

The above-stated restrictions are needed to indicate for what activities the expenditure of implementation grant monies will not be permitted. The expenditure of grant monies on non-energy related activities should not be permitted because such expenditures have no relationship to the purpose or intent of the program as stated in the legislation or these rules. Therefore the expenditure on non-energy related activities or equipment would not be reasonable.

The limitation or prohibition against real property acquisition is needed and reasonable to reduce or eliminate the Agency's liability as it relates to the Uniform Relocation Act of 1970. By not allowing real property acquisition, the Agency can avoid what can be the extremely expensive costs associated with property acquisition and relocation.

This rule is not intended to prohibit the local unit of government from undertaking property acquisition and relocation with their own funds as might be necessary to complete various energy projects. This rule is needed and reasonable in order to insure that the local unit of government is cognizant of its responsibilities and liabilities and to insure that the limited amount of state funds provided for in this program can be used to provide as much benefit to as many local units of government as possible. This would not be the case were the Agency to allow the expenditure of grant monies on real property acquisition and relocation expenses.

The rule which prohibits expenditure of grant funds for personnel to continue operation of various facilities beyond the first year of an implementation grant is also needed and reasonable. It is needed to clearly indicate to local units of government that this grant program is not intended to be an on-going source of funding for the continued operation of any projects which may be developed as a result of the use of these grant funds. Implicit in this rule is that during the first year of the contract grant period grant funds may be used for operation of the facility.

The use of funds for operational purposes during the first year may be needed and reasonable expenditures to bring a facility up to an operating level where it will be self-sustaining. Each funded project should be economically viable and if a project does not appear to be economically viable or self-sustaining the local unit of government should decide prior to beginning implementation of that project if sufficient public benefit can be derived to justify an operating subsidy from the local unit of government.

6MCAR § 2.2404. Evaluation of preliminary applications.

A. Planning Grants.

Preliminary applications which satisfy all eligibility requirements shall be evaluated in a two step process: general criterion and planning function criteria.

This rule is both needed and reasonable to indicate to prospective applicants in what manner their applications will be reviewed and processed for possible funding under these rules. Planning grants necessarily will have to be reviewed on two different levels, those being generalcriterion and a planning function evaluation.

1. General criterion.

Planning Grant applications which address the greatest number of the following considerations will be given priority over Planning Grant applications which addresses a lesser number of the following considerations.

a. Programs designed to result in significant savings of traditional energy sources;

b. Programs designed to assist in the development of renewable energy systems;

c. Programs which encourage broad community involvement in addressing and solving energy problems encountered by local citizens and local units of government;

d. Programs that show a significant degree of transferability to similar units of government;

e. Local-unit-of-government programs which include the provision of local resources or other types of support to address energy problems and to undertake energy planning for the local unit of government.

The general criterion is needed in the rules to indicate to potential applicants the general judgmental framework which will be used in evaluating each particular application.

Subdivision 1 of the law provides that:

> The energy agency when making grants shall give priority to those units of government that submit proposals that could result in significant savings of traditional energy sources, development of renewable energy systems, and broad community involvement. The director shall give priority to local units of government that provide staff or other support for a program and who request grants for programs which can be used by other local governments.

Minn. Stat. § 116H.089 (1980).

Because the legislature specified that the above-listed items be given priority it is necessary and reasonable to inform potential applicants that these factors will be considered in the ranking of proposals.

It is also necessary and reasonable to inform applicants that those applications which address the greatest number of those considerations will be ranked higher than those addressing fewer considerations. The provisions of this rule will aid in diminishing the differences that may occur between larger and smaller units of government. This will be done by evaluating each application for inclusion of elements related to the five specified considerations to determine if the application for funding seeks to develop a comprehensive strategy with which local energy problems can be addressed. A comprehensive strategy will be to the local unit of government's advantage because it will allow the unit of government to address the gamut of energy problems it is encountering and not

restrict the program to a single sector of the local community which could result in only a partial solution to a highly diversified and complex problem.

2. Planning function evaluation.

Applications achieving similar priority ranking based on the general criterion stated in rule 2.2404 A.1. will be evaluated for purposes of funding on the basis of the following criteria:

a. Comprehensiveness of plan elements, such as: potential effects on residential, industrial, municipal and county programs;

b. Ability of the local unit of government's plan to affect energy consumption through the use of tools, such as: codes, ordinances, legal instruments;

c. Use of renewables, such as: solar, wind, biomass, hydropower;

d. Cost-effectiveness;

e. Public participation efforts, such as: neighborhood energy committees, governmental energy committees;

f. Private sector participation such as: financial leverage, van pools, staff or financial contributions;

g. Transferability, as shown by the appropriateness of other units of government utilizing all or parts of a planning process or the results of that plan or process.

This rule is needed and reasonable in order to inform prospective applicants of the methods that will be used to evaluate applications which address similar numbers of the previously-stated general criteria.

The planning function criteria will be applied to each application to develop a more detailed analysis of a local unit of government's ability to accomplish the

objectives set forth in its application.

The extent to which the planning function criteria are notified will be evaluated by a panel of Agency staff that will then rank similarly rated preliminary applications to achieve a priority order of applications which are to be funded.

The planning function criteria will be applied to similarly ranked preliminary applications to determine a final priority for funding of preliminary applications. This process will be completed by a panel of Agency staff in order to achieve a diversified, equitable review of preliminary applications.

It is needed and reasonable to evaluate the comprehensiveness of the application to see if the approach proposed is adequate to cover the range of problems and issues identified in the application. An application which addresses problems which are apparent throughout the community will be given priority over an application which addresses a narrower scope of problems because that program will provide more opportunity for the unit of government to control its own energy future.

It is also needed and reasonable to evaluate a unit of government's ability to implement the program it has proposed. This evaluation will help to determine if the programs it is proposing which require some use of governmental public powers are within the unit's legal powers. If such programs are proposed and are within a unit of government's legal powers an accurate measure of the impact of that program will be possible and useful for purposes of evaluation.

It is needed and reasonable to evaluate the current and potential use of renewables. The use of renewable energy resources presently is growing and is likely to continue to grow because of the escalating costs of traditional energy resources. Therefore the Agency should evaluate applications to see if the local unit of government has realized the potential of those resources and is encouraging their use.

It is also needed and reasonable to evaluate the cost-effectiveness of any programs the local unit of government has included in the preapplication. This is necessary in order to insure that the maximum benefit is being obtained at the lowest possible cost. This evaluative mechanism is especially important during periods of reduced state and federal revenues when the public sector must seek to insure that the expenditure of taxpayers' money is as effective as possible.

It is also needed and reasonable to evaluate the public participation efforts which are detailed in the preapplication. This is particularly true for two reasons. First, the enabling legislation states that priority will be given to applications which use or encourage broad-based community involvement. Second, a program which encourages broad community involvement has a tremendous potential impact on community energy planning, conservation or production. Broad community support will reinforce the comprehensive community planning effort and help to fully develop the community's potential to effectively deal with its own energy future.

It is also needed and reasonable to evaluate what, if any, private sector participation is included in the proposed program. This assessment is important because it will reveal to what extent the non-governmental or general population is involved in working towards the resolution of the total energy problems that have been identified in the application. It is extremely important that as diverse a group of participants as possible be identified to address the issues. Without private sector involvement there is little possibility for the proposed program to be a total success.

It is also needed and reasonable for the Agency to evaluate the transferability of the program. This evaluation is intended to reveal what portions of the program hold potential for other local units of government. Evaluating how transferable certain aspects of the planning program are will enable the Agency to determine which portions of a program can be readily transfered to other local units of government and how successful they likely will be.

B. Implementation Grants.

Evaluation of preliminary applications:

Preliminary applications which satisfy all eligibility requirements shall be evaluated in a two-step process: general criterion and implementation function criteria.

This rule is both needed and reasonable to indicate to prospective applicants in what manner their applications will be reviewed and processed for possible funding under these rules. Implementation grants necessarily will have to be reviewed on two different levels, those being general criterion and an implementation function evaluation.

1. General criterion.

Implementation Grant applications which address the greatest number of the following considerations will be given priority over Implementation Grant applications which address a lesser number of the following considerations:

a. Applications with programs designed to result in significant savings of traditional energy sources;

b. Programs designed to assist in the development of renewable energy systems;

c. Programs which encourage broad community involvement in addressing and solving energy problems encountered by local citizens and local units of government;

d. Programs that show a significant degree of transferability to similar units of government;

e. Local-unit-of-government programs which include the provision of local resources or other types of support to address energy problems and to undertake energy production and/or conservation in the local unit of government

The general criterion is needed in the rules to indicate to potential applicants the general judgmental framework which will be used in evaluating each particular application.

Subdivision 1 of the law provides that:

> The energy agency when making grants shall give priority to those units of government that submit proposals that could result in significant savings of traditional energy sources, development of renewable energy systems, and broad community involvement. The director shall give priority to local units of government that provide staff or other support for a program and who request grants for programs which can be duplicated by other local governments.

Minn. Stat. § 116H.089 (1980).

Because the legislature specified that the above listed items be given priority it is necessary and reasonable to inform potential applicants that these factors will be considered in the ranking of proposals.

It is also needed and reasonable to inform applicants that those applications which address the greatest number of those considerations will be ranked higher than those addressing fewer considerations. The provisions of this rule will aid in diminishing the differences that may occur between larger and smaller units of government. This will be done by evaluating each application for inclusion of elements related to the five specified considerations to determine if the application for funding seeks to develop a comprehensive strategy with which local energy problems can be addressed. A comprehensive approach will be to the local unit of government's advantage because it will allow the unit of government to address the gamut of energy problems it is encountering and not restrict the program to a single sector of the local community which could result in only a partial solution to a highly diversified and complex problem.

2. Implementation grant evaluation.

Application achieving similar priority ranking based on the general criterion stated in rule 2.2404 B.1. will be evaluated for purposes of funding on the basis of the following criteria.

a. The proposed project must be technically feasible:

1) Degree to which the project meets scientifically accepted laws.

2) Degree to which the project increases or enhances the state of the art.

b. The project must be economically viable:

1) The budget is adequate to complete the proposed project.

2) The estimated cost of the energy produced or conserved as a result of this project, including all research, development and production costs, and excluding research and development costs.

c. The applicant must be capable of successfully conducting the project:

1) Level of education, or experience in conducting similar project implementation.

2) Awareness of other or similar projects or related studies from which the applicant may obtain assistance.

d. The applicant must show that economic benefits may result from this project:

1) Savings resulting from conservation.

2) Job creation.

e. The proposal must demonstrate a significant degree of transferability.

f. The applicant must show that the proposal complies with local, state and/or federal requirements (environmental, zoning, health).

This rule is needed and reasonable in order to inform prospective applicants of the methods that will be used to evaluate applications which address similar numbers of the previously-stated general criteria.

The implementation function criteria will be applied to each application in order to develop a more detailed analysis of a local unit of government's ability to accomplish the objectives set forth in its application.

The extent to which the implementation function criteria are satisfied will be evaluated by a panel of Agency staff that will then rank similarly rated preliminary applications to achieve a priority order of applications which are likely to be funded.

It is necessary to institute a technical review of implementation grant applications in order to justify the expenditure of Agency funds on any particular project. This technical review is needed to determine whether the proposed project is possible on a scientific basis. The project must be technically feasible in order to assure that the proposed results are actually attained. A decision to fund unproven technologies or speculative projects cannot be justified in light of the current state and federal financial situations. A proposal should show that a project is possible or meets scientifically accepted laws.

It is also reasonable to give additional merit to a proposal which increases or enhances the state of the art as it relates to a particular proposal, provided it continues to meet scientifically accepted laws. This will encourage innovation which may be readily transferable to other applicants in this program and local units of government throughout the state.

The requirement that an implementation project be economically viable is needed and reasonable because of the limited fiscal resources available from all levels of government. The reality of finite financial resources demands that those implementation projects undertaken by a local unit of government pay their

own way or operate at a level at which the local unit of government can realistically provide a subsidy. In order to determine if such a subsidy is necessary, a total budget must be drawn up for the project. This budget should reveal whether the commitments from all funding sources are adequate to complete the proposed project. The basis for Agency commitment, in part, should be the evidence of firm commitment, at an adequate level to complete the project, from all parties involved in the development and implementation of the project.

An additional analysis which is needed and reasonable is that of the estimated cost of the energy produced or conserved as a result of the project. Such an analysis should indicate the cost per unit of energy and how it compares with present production and/or conservation efforts. This analysis will assist the Agency in determining priorities for funding and greatly aid the Agency in obtaining the greatest benefit from its limited resources.

It is also reasonable that the Agency be shown that the applicant is capable of successfully implementing the project. This can reasonably be evaluated based on education and/or previous experience in implementing similar or related projects. It is also reasonable to determine if the applicant is sufficiently aware of similar projects which might provide advice, information or technical assistance to the applicant in completing the project. By successfully conducting background research an applicant may be able to avoid pitfalls which may jeopardize the entire project.

It is also needed and reasonable that the project show that economic benefits may be derived from the implementation of this project. Two examples are included in the rule. First, significant conservation can reduce the outflow of financial resources from the community. A reduction of this outflow allows for those resources to be invested locally which in turn has a multiplying effect on the local economy. Secondly, a local implementation project holds potential to produce

both temporary and permanent job opportunities which can add to the total financial benefits derived from the project. While a project may not directly employ a large number of persons it may generate jobs which effectively supplement the project. A meaningful measurement of either or both of these factors would demonstrate economic benefits.

It is also needed and reasonable for the Agency to assess to what degree the proposal shows the transferability of this project to other local units of government. This evaluation will allow the Agency to determine which portions of the program may be useful to other local units of government in the State of Minnesota. This evaluation could also aid the Agency in determining a long range investment strategy for State monies. Again, a strategy such as that will assist the Agency in making the most cost-effective use of finite financial resources.

It is also needed and reasonable for theproposed project to comply with local, state and federal requirements related to issues such as the environment, zoning laws and public health regulations. This requirement will help promote the orderly use and development of a local unit of government's resources. While the proposed project is designed to produce positive change in a community this change should not be at the expense of other local, state and federal regulations which have been shown to be methods which can induce positive change in the local area.

6MCAR § 2.2405. General application procedures.

A. The approval process for Planning Grants and Implementation Grants has three stages: preliminary application, final application, and contract execution.

This rule is needed to inform applicants that a three-step process is required prior to the community being able to receive or expend any grant funds.

It is reasonable to provide for a three-step process as this will minimize the expense of applying for funds by the local unit of government. The expense of application will be minimized because the preliminary application will be the basis on which applications are ranked. A final application will be requested only from the applications which are ranked in categories high enough and for which sufficient funds exist to fund those grants. By using this method it will not be necessary for a local unit of government to submit a final application unless it is asked to submit such an application and reasonably assured that it will receive a grant allocation.

A final application, provided it does not significantly differ from the preliminary application, will be used to determine the level of funds given to a local unit of government. The final application will also be used to determine a work program, activities to be undertaken, desired results and local administrative organization.

The contract execution phase will only occur when a final application has been requested, reviewed and approved by the Agency. This contract will then assign the obligations of both the grantee and the agency.

B. Joint applications may be submitted by two or more local units of government which are encountering energy-related problems for which it appears joint consideration of problems is possible, preferable and appropriate. In addition to complying with rule 6 MCAR § 2.2406 regarding application contents, joint applicants shall also designate a lead applicant and include their authority for joint application in the form of resolutions, joint power agreement, or other.

It is needed and reasonable for the Agency to allow joint grant applications to be submitted by two or more units of government for a number of reasons. First,

Minnesota's numerous smaller communities could combine their local resources to address common problems. This combined approach would allow joint applications to be funded that individually may not rank high enough to be funded. Second, the joint application provision could provide for the attainment of various economics of scale that single applications probably could not attain. This means that the combined resources, human and financial, could be applied to the resolution of problems that may not otherwise be addressed because of staff or financial limitations. Finally several statewide benefits may be attained by the reduced financial burden of multiple administrative mechanisms on the local level and the reduction in direct Agency administrative expense of providing one grant versus that of providing two or more.

It is also needed and reasonable for the Agency to ask for a designated lead applicant who will be responsible for the administration of the grant on the local level. This is needed in order to determine to whom correspondence should be sent and to indicate who will assume the responsibility of completing the agreed upon tasks in the work program.

It is also needed and reasonable to ask joint applicants to supply a resolution indicating that they are knowingly and willfully undertaking a joint project. This will supply the Agency with evidence that the policymaking bodies of the local units of government are fully aware of their units' role and obligations under this program.

C. The preliminary application or a notice of preapplication shall be submitted to the appropriate clearinghouse for review and comment at least 45 days prior to the date applications are due at the Agency. The clearinghouse may waive this review requirement. Written evidence of the clearinghouse waiver shall be included in preliminary applications submitted directly to the Agency. Failure of the clearinghouse to conduct its review within 45 days shall be considered as approval

of the application by the clearinghouse, unless both the applicant and the clearinghouse agree to extend the review period for an agreed-upon time period. Upon receipt of the clearinghouse review comments the applicant shall submit the preliminary application together with the clearinghouse comments to the Agency on or before the due date. Each clearinghouse must submit to the Agency a list of all applications reviewed during a particular funding cycle. The timetable in this rule shall apply to all grant cycles after the first cycle. During the first cycle simultaneous submission to both the Agency and the clearinghouse shall be permitted.

State laws (Minn. Stat. § 433.171, subd. 2, and Minn. Stat. § 462.391, subd. 3) require that the Metropolitan Council or the appropriate regional development commission review all applications of governmental units for state or federal aid, in order for the reviewing body to advise the state or federal government as to the relationship of the application to the comprehensive plan and priorities of the region as established by the region. Therefore it is both needed and reasonable to include this requirement in the rules.

The forty-five (45) day requirement is also reasonable because it allows sufficient time to conduct reviews by clearinghouse staff or their local policy makers. If the clearinghouse elects not to conduct such reviews it is reasonable to permit them to waive this requirement. However, if they elect not to review the applications it should be required that they indicate that waiver in a written statement to the applicant or the Agency.

The provision of the rules which would automatically give clearinghouse approval unless the review was conducted within 45 days is needed and reasonable in order to keep the application process moving forward once the application has been sent to the clearinghouse.

The provision requiring the clearinghouse to submit a list of all applications reviewed is necessary so that the Agency can identify those applications which have been reviewed or waived for review purposes relative to those applications which have been submitted to the Agency.

The waiver of this required timetable is needed on the first grant cycle in order to start the grants process in a timely manner. The timetable for rules adoption, and notification of program availability to applicants would indicate that a normal cycle would not be possible to meet. Therefore the Agency feels it is needed and reasonable to allow simultaneous submission to both the clearinghouse and Agency.

D. The Agency shall have thirty days after the preliminary application due date to review preliminary applications. Incomplete or ineligible applications will be returned to the applicant with a written statement of reasons for rejection.

This rule is needed and reasonable because it will supply the Agency with a reasonable time period in which to review all the preliminary applications received. It is also reasonable for the Agency to provide a written statement to applicants if and when their application is determined to be incomplete or ineligible. The notification will help to avoid a repetition of the mistakes which made the application incomplete or ineligible and will assure applicants that reasons for rejection will be articulated.

6MCAR § 2.2406. Preliminary application.

A. A preliminary application shall be submitted to the Agency for purposes of determining eligibility and priority for funding. The preliminary application shall be in a form and manner prescribed by the Agency and shall contain the information required by the rules, including but not limited to the

following: name of community(s), demographic data, previous community planning efforts, descriptions of community services, statement of intended results, identification of amount and source of local share, total estimated program cost, and a copy of a resolution authorizing submission of the application to the Agency.

This rule is needed in order to indicate to prospective applicants what the purpose of the preliminary application is and for what purposes it is used. This will assist the applicant in determining what information and materials should be supplied in a preliminary application to the Agency.

The information requested in this rule is needed in order for the Agency to identify the local unit of government, determine the size of the population and where possible benefits might be attained, determine planning capacity and organizational skills that presently exist, determine what functions the local unit of government presently performs, determine if the intended results are reasonable relative to available funds and local capacity to attain those results, identify the local contribution and total program cost and finally to determine if the local policy body is initiating the undertaking of this program.

B. Preliminary applications shall be submitted semi-annually not later than February 1 and August 1, except that during calendar year 1981, the due date for preliminary applications shall be 90 days after these rules become effective.

These timetables are necessary and reasonable in order to allow the Agency to spread the work load evenly over an entire twelve-month period. The dates will also allow unsuccessful applicants to revise their applications and submit them within the next six months thereby maintaining any momentum they may have built up for their programs. By using the dates of February 1 and August 1 this

would also allow the local units of government to incorporate possible grant funds into their annual operating budgets which would help local units of government develop their work plans for an entire year.

6MCAR § 2.2407. Final application.

A. A final application may be submitted only by applicants which have received a letter of notification authorizing submission of a final application. Final applications must be received by the Agency no later than 45 days after the date of the letter of notification. The format for final applications is set out in rule 6 MCAR § 2.2407 B. Final applications will be reviewed for completeness and compliance with the rules of this program. Incomplete applications or applications which differ substantially from preliminary applications will not be granted and a written statement citing the reasons for rejection will be provided to the applicant. Eligible final applications will be funded based on the priorities of this program and the availability of grant funds. Receipt of a letter of notification is not a guarantee that a grant will be made to the submitter of a final application. A grant award shall be made by contract as set out in rule 6 MCAR § 2.2407.

This rule is needed in order to indicate to the prospective applicants the process that will be followed in order to submit a final application. A final application will be requested only from preliminary applicants which are ranked high enough to receive some of the available funds. Forty-five (45) days should be sufficient time for the local unit of government to submit the final application after having been notified. It will be necessary for the Agency to review the final applications to insure that they are complete and that the proposed activities are in compliance with the other rules of this program.

It is reasonable for the Agency to reject those final applications which differ substantially from the preliminary applications. This is both needed and reasonable because the invitation to submit a final application will be based on the ranking or priority that is determined from the materials and programs presented in the preliminary application. Therefore a program which significantly differs from the preliminary application would or could not be compared on an equal basis to other preliminary applications. If it is determined that an application should be rejected it is also reasonable the Agency should supply, to the applicant, a written explanation for that rejection.

It is also needed and reasonable to provide that grant awards are made on a contract basis so that all parties involved are fully aware of their rights and obligations under this program.

B. The final application shall contain at least the following elements:

1. A work program/schedule which contains the following:

a. A statement of the existing or emerging energy problem(s) which are to be investigated with the grant. This statement should identify how the problem(s) are affecting or will affect the applicant and the means the recipient is planning to use to alleviate the problem(s).

b. A description of the activities which the grant makes possible. The description of activities should identify the expected results and/or products and should be in sufficient detail to enable the Agency to measure progress and to identify the person responsible for for the completion of each activity. The description should include expected completion dates, by particular activity. Each work element should be assigned to a

specific staff member or consultant.

c. A statement identifying the way in which the grant will improve the governing body's capability to address local energy problems and a schedule indicating when and how this will be accomplished.

2. Designation of a lead applicant.

The grant applicant shall designate a lead applicant, agency, organization or individual who will be responsible for completion of the agreed-upon work program.

3. Local share.

A detailed statement identifying the source(s) and amount of the local share. The local share may be in cash or in-kind or a combination of cash and in-kind.

4. Signature/resolution.

The application shall be submitted to the Agency only if accompanied by a resolution passed at an official meeting of the governing body and signed by the authorized person.

This rule is needed and reasonable in order to indicate to final applicants what will be required from them in order to complete a final application.

6MCAR § 2.2407 B.1.a. is needed in order to determine what analysis of energy problems will be undertaken with the use of grant funds. This is reasonable in order for the Agency to determine if the final application and its proposed activities closely parallel those which have been stated in the preliminary application. This requirement will also assist the Agency in determining if the planning program is appropriate for present or anticipated energy problems

6MCAR § 2.2407 B.1.b. is needed and reasonable in that it permits the Agency to evaluate the proposed activities, relative to the preliminary application, to see

what specific measures the program will allow and over what time period these activities will occur and when completion can reasonably be expected. This will apply to all individual activities detailed in the application.

6MCAR § 2.2407 B.1.c. is needed and reasonable because it will help the Agency and the applicant determine how the governing obdy will use the results of this planning program to help them address in policy issues ways in which they can significantly impact the energy problems they are encountering or will encounter.

6MCAR § 2.2407 B.2. is both needed and reasonable in order for the Agency to know who the formal contact person is and who correspondence should be sent to relating to this program. It is reasonable for an applicant to designate a lead person, organization or agency so that the administrative and organizational issues can be resolved. This will also allow for a more centralized reporting system which will help the grantee and the Agency determine if all parties to the grant contract are fulfilling their obligations as set out in the work program and schedule.

6MCAR § 2.2407 B.3. is needed and reasonable in order for the applicant and the Agency to determine if the local match or ratio is sufficient to meet the requirements of the program. By providing this information the Agency will also be able to determine if the local match is in a form, such as cash or in-kind, that meets the requirements of this program's rules.

6MCAR § 2.2407 B.4. is needed and reasonable in order for the Agency to be assured that the public policymaking body of the local unit of government approves the final application for grant funds being submitted to the Agency. This requirement will further aid the Agency in determining that the local policymaking body has had adequate opportunity to supply input into the application process and program development.

6MCAR § 2.2408. Grant contract.

A. The final step in the awarding of a Planning Grant or an

Implementation Grant is execution of a grant contract. The grant contract shall be based upon the final application. The contract shall specify the amount of the grant to the recipient and the duration of the grant. The contract shall include assurance that the local share will be provided and that the agreed-upon work program will be carried out. A grant contract based upon a joint application will be executed by the lead applicant. Amendments may only be made in writing signed by both parties. Extensions must be justified in writing. Planning grant extensions shall not exceed 90 days. Implementation grant extensions will be based on the scope of work remaining and a reasonable period in which to complete all work.

6MCAR § 2.2408 is needed in order to inform the prospective grantee that a contract will be drawn up between the successful applicant and the Agency for purposes of formalizing the duties, activities, and obligations of the grantee and the Agency. It is reasonable and needed that the contract specify the amount of the grant and for what period the grant will cover. This will also aid the local unit of government in predicting the cash receipts relative to the expenditure of funds.

The provision for assurances that the local share is being provided is both needed and reasonable in order to assure the Agency that the local unit of government is making a significant contribution while at the same time being the recipient of some of the financial and technical resources available from the Agency.

The requirement of the lead applicant of a joint application executing the contract is reasonable and needed in order to designate who will be in charge of administering the grant on the local level and formalizing that relationship between the lead applicant and Agency.

It is also needed and reasonable for the Agency to allow for amendment of contracts because of problems or situations which may necessitate program change. At the same time it is needed and reasonable that these amendments be made in writing and approved by the grantee and the Agency so that both parties remain aware of their responsibilities and obligations under this program. The need for justifying any grant extensions in writing is reasonable to the grantee and the Agency because it will supply the opportunity to supply suggestions which may be helpful in resolving any problems which may be inhibiting successful completion of the agreed upon tasks.

The provision for allowing flexible periods or extensions on implementation grants is needed and reasonable because the implementation grants will likely include construction of facilities and involve parties or elements who actions are beyond their own control. Possible examples of extenuating circumstance might be labor strikes, weather conditions or the inability to obtain material essential to the successful completion of the job. The possibility of these types of problems makes it essential that a flexibility be built into the system which allows for such occurrences.

B. Funding period.

Grants will be funded for the following periods.

1. Planning Grants will be approved for a period of up to one year.
2. Implementation Grants will be approved for a period to be agreed upon by the grantee and the Agency and specified in the contract, based upon the scope of the implementation activities funded and a reasonable work schedule, or timetable.

6MCAR § 2.2408 B.1. is needed to inform the local unit of government that a period of up to one year will be allowed for the completion of a planning grant.

With the assistance that will be available from the Agency in terms of technical and financial assistance, it is reasonable that within a year period all scheduled work could be completed.

6MCAR § 2.2408 B.2. is reasonable because it provides sufficient flexibility to implement a project based on the scope of work predetermined by the Agency and the grantee. This flexibility is necessary because the types of implementation projects allowable under this grant program are extremely diverse and will require varying amounts of time in order to successfully complete a project.

C. Grant ratios.

1. Planning Grants shall not exceed 75% of the total first year proposed budget;
2. The Agency may award an Implementation Grant up to 50% of the project cost, but not to exceed $50,000.00;
3. No single grant shall exceed $50,000.00.

Rule 6MCAR 2.2408 C.1. is needed to clearly state to the applicant that a planning grant shall not exceed 75% of the total year's cost for their energy planning program. This indicates to the applicant that a 25% local match will be required under the rules of this program. This 25% local match ratio is reasonable because it shows a significant local match which when combined with the Agency's grant amount can be used to help solve the local energy problems.

6MCAR § 2.2408 C.2. allows for the Agency to grant implementation monies up to 50% of a project's costs, not to exceed $50,000. This maximum of $50,000. is specifically prescribed in Chapter 579, sec. 7, subd. 1.

The provision for allowing a 50%-of-total grant amount up to $50,000. was selected because any implementation project should be evaluated, prior to beginning implementation, as a project that is economically self-sustaining or requiring a subsidy level that the local unit of government is willing to contribute.

Furthermore, if the Agency is willing to contribute up to $50,000. the local unit of government should be willing to match or far exceed the Agency contribution because it will be the primary recipient of the benefits that are derived from the project.

D. Disbursement schedule.

Grant funds will be disbursed to the grantee according to invoices submitted on the following schedule:

1. 50% during the first month of the grant contract funding period;
2. 40% upon completion of half of the agreed-upon work program;
3. 10% upon completion of a satisfactory evaluation according to 6 MCAR §§ 2.2409.

This rule is needed is order for the applicant to understand on what basis or schedule grant funds will be made available to the applicant.

The provision of 50% of the grant funds during the first month of the contract period is reasonable because of the sudden increase in expenses directly associated with the grant program. These sudden costs are for expenses such as salaries, fringe benefits, materials and supplies, etc.

The availability of 40% upon completion of half of the agreed-upon work program is also reasonable because the completion of half of the work program will show to the Agency the local unit of government's commitment to fulfilling its obligations under this grant program.

It is also reasonable for the Agency to withhold 10% of the grant amount until a satisfactory evaluation has been completed. This is needed and reasonable in order for the Agency to be sure that the grantee has completed all of the agreed-upon work program and that the local unit has contributed its local share.

E. Required reports.

The grantee shall submit to the Agency quarterly work progress reports in a format prescribed by the Agency. Reporting requirements will vary depending upon the scope of work proposed and approved by the Agency for funding. In addition, the grantee shall provide the Agency with three copies and a camera-ready copy of a grantee's final community energy plan.

This rule is needed to inform the grantee that quarterly reports to the Agency will be required in order to keep the Agency informed on the progress of this recipient's program. This is a reasonable requirement placed upon the grantee that will inform the Agency of the programs status and provide an indication of when and how the Agency may be of assistance to a community in bringing about the successful completion of its planning or implementation program.

Reporting requirements will be based on the type of grant provided and a reasonable reporting schedule which when provided will assist the Agency in determining the progress of the program.

It is also reasonable for the grantee to provide the Agency with 3 copies and a camera ready copy of any final reports developed for the community under this program. The copies of this report will be distributed as follows:

1. Applicant's file
2. MEA library
3. State Planning Agency
4. Camera ready copy - in applicant's file.

The provision of three copies will allow the Agency to keep copies readily available, and supply the State Planning Agency with a copy. The camera ready copy is to allow for copies to be easily made which will help to make the information contained therein more accessible to other communities or agencies in the State of Minnesota.

F. Records.

The Grantee shall maintain for a period of not less than three years all records relating to the receipt and expenditure of grant monies.

This requirement is needed and reasonable in order to comply with Minn. Stat. 138.17 and the Agency's record retention schedule which was prepared pursuant to this law.

G. Monitoring grant results.

As a condition of accepting a grant a grantee will be expected to:

1. Document on an annual basis the results of the grant program for a period of up to 3 years (for example, energy savings, financial savings, or any other documentation related to the results of the grant);
2. Participate in at least one Agency workshop at which the grantee will present the results of the grant program.

This rule is needed in order to insure that the grantee is fully aware of its obligations under this program. It also serves as a signal to the grantee that it should be able to indicate or document to the Agency how this grant assisted the local unit of government in developing and implementing a program that helps the community solve its energy-related problems. The three year requirement is needed and reasonable because it provides a long enough period of review to accurately measure the effectiveness of the program.

The requirement that a grant recipient participate in at least one Agency-sponsored workshop is needed and reasonable because it assures that a local unit of government that receives a grant will in some measure share with the balance of the State the successes and shortcomings of its planning or implementation program.

H. Contract deviations.

1. No grant funds shall be used to finance activities by consultants or local staff not included in the grant contract, unless agreed upon in writing by the Agency.
2. Unless agreed upon by the grantee and the Agency it will not be permissible for 100% of all energy-related activities to be contracted out to consultants.

This is both needed and reasonable because it informs the grant recipient that it is bound by the grant contract to fulfill the requirements of that contract. It also indicates to the possible grant recipient that the final grant application and contract should accurately reflect the concerns addressed. Likewise it indicates that the local staff can reasonably and usefully work on the project. Any deviations to the contract must be made in writing in order to assure the Agency that the activities and expenses are allowable under this programs rules.

It is also reasonable not to allow 100% of all activities to be done by consultants. This is necessary because the legislation states that the purpose is to improve the local energy planning capabilities of local units of government. If the Agency were to allow 100% grant expenditures on consultants it is likely that the local unit of government will not be deeply involved in the planning process. By not allowing all grant expenditures to consultants the local unit will be more responsible for portions of the plans development. This in turn will increase the likelihood that the plan or portions of that plan will be implemented.

6MCAR § 2.2409. Evaluation.

The Agency shall conduct a final evaluation of grant work performance within 60 days of the submission by the grantee

to the Agency of a final community energy plan or all the required reports and financial documents. The evaluation shall assess:

A. Whether the local share contributed was equal to or greater than 25% of the total cost of a first year Planning Grant;

B. Whether the local share contributed was equal to or greater than 50% of an Implementation Grant;

C. Whether the agreed-upon work program was completed;

D. Whether the governing body has formally reviewed the energy plan.

Upon completion of a satisfactory evaluation the remaining 10% of the grant shall be disbursed to the grant recipient. If the results of the evaluation are unfavorable to the grantee and the grantee does not agree with the findings of the evaluation, the grantee may request a hearing before the Agency.

The requirement that the Agency conduct a final evaluation of grant work is reasonable in order to insure that the grant work, required reports and financial documentation have been completed as required by the grant contract. The 60 day period allowed is sufficient because it allows plenty of time to review the required documents within the Agency and prepare to do field checks as may be needed in order to conduct a full evaluation. The review shall consider:

A. Whether the local share contributed was equal to or greater than 25% of the total cost of a first year Planning Grant;

B. Whether the local share contributed was equal to or greater than 50% of an Implementation Grant.

This review requirement is necessary and reasonable in order to evaluate the program to see if the program ratios are met.

The evaluation shall also consider:

C. Whether the agreed-upon work program was completed.

This is necessary and reasonable in order to see that the local unit has fulfilled its obligation as detailed in the grant contract. This portion of the evaluation will be based on the final approved application and the signed contract agreement.

D. Whether the governing body has formally reviewed the energy plan.

This requirement is necessary in order to insure that the governing body which submitted the application has formally reviewed the documents which are developed from the work of this program. This is intended to insure that the governing body of the local unit formally considers the findings of the program and considers for implementation the aspects of the program which may assist in the resolution of the local unit of government's energy problems.

It is also reasonable that the state will then provide the remaining 10% of the grant contract amount. It is needed for the State to be able to withhold the last 10% of grant funds in the event that the agreed-upon work program is not completed. Because the Agency is investing heavily in the future, the Agency must have some recourse, such as withholding 10% of the grant funds, if contract obligations are not fulfilled.

It is also needed and reasonableto allow the grantee a hearing before the Agency in the event that an evaluation is unfavorable to grantee. This hearing will provide an opportunity for the grantee to submit information or evidence to the Agency upon which a final decision can be rendered regarding the grant evaluation.

Date: March 19, 1981

MINNESOTA ENERGY AGENCY
CONSERVATION DIVISION

By Jay A. Brunner
Jay Brunner

Adopted June 10, 1981

AG copy.

Rules as Adopted

6 MCAR § 2.2401. Authority and purpose.

A. Authority.

Rules 6 MCAR §§ 2.2401 - 2.2409 implementing the Community Energy Planning Grants Program are promulgated by the Agency pursuant to Minn. Stat. sec. 116H.089 (1980).

B. Purpose.

It is the purpose of the Community Energy Planning Grants Program to improve the energy planning capabilities of local governments, to conserve traditional energy sources, to develop renewable energy systems and to broaden community involvement in the energy planning process. These rules set forth criteria and procedures for providing state assistance to counties and cities, however organized.

C. Limitation.

No more than forty-five percent (45%) of the amount appropriated for Community Energy Planning Grants shall be distributed to counties and cities within the seven-county metropolitan area defined in Minn. Stat. § 473.121, subd. 2 (1980).

6 MCAR § 2.2402. Definitions.

The following terms used in these rules shall have the following meanings.

A. "Agency" means the Minnesota Energy Agency.

B. "Local unit of government" for purposes of applying for grants under this program, means a city, a county or a combination of such units. ~~A city of the first class may apply for a grant to assist a neighborhood organization to do energy related planning and implementation activities.~~ "Local unit of government" also includes those organizations which the local unit of government recognizes as capable of, and with which it may enter a contract for the purpose of performing the authorized energy-related planning and implementation activities.

~~C. "Neighborhood organizations" means those organizations recognized by the city government for planning and development purposes in areas whose boundaries are officially determined by the city.~~

C. ~~D.~~ "Clearinghouse" means that governmental unit which has authority to review requests for state and federal aid for local units of government within its jurisdiction.

In the seven-county metropolitan area this review authority is the Metropolitan Council under Minn. Stat. § 473.171, subd. 2 (1980).

The review authority for the remainder of the state is the appropriate Regional Development Commission under Minn. Stat. § 462.391, subd. 3 (1980).

D. ~~E.~~ "In-kind" means:

1. Salary and cost of fringe benefits of the grant recipient staff working on activiites funded by the grant.
2. Increases in overhead resulting from carrying out activities funded by the grant.

6 MCAR § 2.2403. Types of grants.

There shall be two types of grants made to local units of government: Community Energy Planning Grants and Community Energy Plan Implementation Grants.

A. Community Energy Planning Grants.

Planning Grants shall be used for developing local energy plans relating to such issues as, but not limited to : citywide or countywide conservation; use of renewable resources through technologies currently available; conservation of energy used in buildings owned by the local unit of government, of energy used for building and street lighting, and of energy used in building space heating and cooling; and energy considerations in traffic management, in land use planning, in capital improvement programming/budgeting, in municipal operating budgets, and in economic development plans.

B. Community Energy Plan Implementation Grants.

Implementation Grants shall be used for purposes of implementing all or portions of a local community energy plan. Local units of government may apply for implementation grants whether or not the community energy plan was prepared under the Community Energy Planning Grant Program, provided the community energy plan has been submitted to and ~~approved~~ reviewed by the Agency. HE 9

C. The following activities or expenditures are eligible for Planning Grants:

~~1. Planning staff personnel, salaries, or benefits;~~
1. Salaries or benefits for planning staff personnel; HE 10

2. Data collection or analysis or both;

3. Development of local energy documents including plans;

4. Modification of capital improvement programs for energy-related projects;

5. Development of energy-conscious fleet management systems, transportation plans, intergovernmental plans;

6. Development of budgetary or fiscal systems which significantly address energy costs;

7. Development of zoning, subdivision and ~~building~~ other codes, ordinances, regulations, supplements or amendments relating to energy; HE 11

~~8. Housing code development for energy related elements;~~

8. ~~9.~~ Any other activities which carry out the purpose of the program as expressed in rule 2.2401 B.

D. The following activities or expenditures are ineligible for Planning Grants:

1. Non-energy related issues;

2. ~~Repayment~~ Retroactive payment HE 14 of revenue to local units of government for energy activities previously undertaken;

3. Out-of-state travel, unless specifically approved in a contract between the grantee and the Agency.

E. The following activities or expenditures are eligible for Implementation Grants:

1. Detailed drawings, architectural drawings, site designs, engineering specifications;

2. Equipment purchases directly affecting energy recovery, conservation or production;

3. Construction of energy production or energy recovery systems;

4. Any other activities which carry out the purpose of the program as expressed in rule 2.2401 B.

F. The following activities or expenditures are ineligible for Implementation Grants;

1. Non-energy related projects;

2. Property acquisition (real property);

3. Personnel for continued operation of energy conservation, production or recovery facilities beyond the first year of an Implementation Grant.

6 MCAR § 2.2404. Evaluation of preliminary applications.

A. Planning Grants.

Preliminary applications which satisfy all eligibility requirements shall be evaluated in a two step process: general criterion and planning function criteria.

1. General criterion.

Planning Grant applications which address the greatest number of the following considerations will be given priority over Planning Grant applications which address a lesser number of the following considerations.

a. Programs designed to result in significant savings of traditional energy sources;

b. Programs designed to assist in the development of renewable energy systems;

c. Programs which encourage broad community involvement in addressing and solving energy problems encountered by local citizens and local units of government;

d. Programs that show a significant degree of transferability to similar units of government;

e. Local-unit-of-government programs which include the provision of local ~~resources or other types of~~ HE 14 support to address energy problems and to undertake energy planning for the local unit of government.

2. Planning function evaluation.

Applications achieving similar priority ranking based on the general criterion stated in rule 2.2404 A. 1. will be evaluated for purposes of funding on the basis of the following criteria:

a. Comprehensiveness of plan elements, such as: potential effects on residential, industrial, municipal and county programs;

b. Ability of the local unit of government's plan to affect energy consumption through the use of tools, such as/ but not limited to codes, ordinances, ~~legal instruments,~~ joint powers agreements, property covenants and easements;

c. Use of renewables~~,~~ energy resources such as: solar, wind, biomass, hydropower;

d. Cost-effectiveness;

e. Public participation efforts, such as: neighborhood energy committees, governmental energy committees;

f. Private sector participation such as: ~~financial leverage,~~ van pools, staff, materials or financial contributions;

g. Transferability, as shown by the appropriateness of other units of government utilizing all or parts of a planning process or the results of that plan or process.

B. Implementation Grants.

Evaluation of preliminary applications:

Preliminary applications which satisfy all eligiblity requirements shall be evaluated in a two-step process: general criterion and implementation function criteria.

1. General criterion.

Implementation Grant applications which address the greatest number of the following considerations will be given priority over Implementation Grant applications which address a lesser number of the following considerations:

a. Applications with programs designed to result in significant savings of traditional energy sources;

b. Programs designed to assist in the development of renewable energy systems;

c. Programs which encourage broad community involvement in addressing and solving energy problems encountered by local citizens and local units of government;

d. Programs that show a significant degree of transferability to similar units of goverment;

e. Local-unit-of-government programs which include the provision of local ~~resources or other types of~~ support to address energy problems and to undertake energy production and/or conservation in the local unit of government.

2. Implementation grant evaluation.

Application achieving similar priority ranking based on the general criterion stated in rule 2.2404 B.1. will be evaluated for purposes of funding on the basis of the following criteria.

a. The proposed project must be technically feasible. Technically feasible means:

1) The ~~D~~degree to which the project meets scientifically accepted laws; or,

2) The ~~D~~degree to which the project increases or enhances the state of the energy art.

b. The project must be economically viable. Economically viable means the budget is adequate to complete the proposed project~~;~~.

~~2)~~ ~~The estimated cost of the energy produced or conserved as a result of this project, including all research, development and production costs, and excluding research and development costs.~~

c. The applicant must be capable of successfully conducting the project. This will be determined by evaluating:

1) The ~~L~~level of education, or experience in conducting similar project implementation~~.~~; or,

2) The existence ~~awareness~~ of other or similar projects or related studies from which the applicant may obtain assistance.

d. The application must show that economic benefits ~~may~~ will result from this project. Economic benefits are:

1) Monetary or fuel ~~S~~savings resulting from conservation, or

2) Job creation.

e. The proposal must demonstrate a significant degree of transferability.

f. The applicant must show that the proposal complies with local, state and/or federal requirements (environmental, zoning, health).

6 MCAR § 2.2405. General application procedure.

A. The approval process for Planning Grants and Implementation Grants has three stages: preliminary application, final application, and contract execution.

B. Joint applications may be submitted by two or more local units of government which are encountering energy-related problems for which it appears joint consideration of problems is possible, preferable and appropriate. In addition to complying with rule 6 MCAR § 2.2406 regarding application contents, joint applicants shall also designate a lead applicant and include their authority for joint application in the form of resolutions, joint powers agreement, or other such agreements.

C. The preliminary application or a notice of preapplication shall be submitted to the appropriate clearinghouse for review and comment at least 45 days prior to the date applications are due at the Agency. The clearinghouse may waive this review requirement. Written evidence of the clearinghouse waiver shall be included in preliminary applications submitted directly to the Agency. Failure of the clearinghouse to conduct its review within 45 days shall be considered as approval of the application by the clearinghouse, unless both the applicant and the clearinghouse agree to extend the review period for an agreed-upon time period. Upon receipt of the clearinghouse review comments the applicant shall submit the preliminary application together with the clearinghouse comments to the Agency on or before the due date. Each clearinghouse must submit to the Agency a list of all applications reviewed during a particular funding cycle. The timetable in this rule shall

apply to all grant cycles after the first cycle. During the first cycle simultaneous submission to both the Agency and the clearinghouse shall be permitted.

D. The Agency shall have thirty days after the preliminary application due date to review preliminary applications. Incomplete or ineligible applications will be returned to the applicant with a written statement of reasons for rejection.

6 MCAR § 2.2406. Preliminary application.

A. A preliminary application shall be submitted to the Agency for purposes of determining eligibility and priority for funding. The preliminary application shall be in a form and manner prescribed by the Agency and shall contain the information required by the rules, including but not limited to the following: name of community(s), demographic data, previous community planning efforts, descriptions of community services, statement of intended results, identification of amount and source of local share, total estimated program cost, and a copy of a resolution authorizing submission of the application to the Agency.

B. Preliminary applications shall be submitted semi-annually not later than February 1 and August 1, except that during calendar year 1981, the due date for preliminary applications shall be 90 days after these rules becomes effective.

6 MCAR § 2.2407. Final application.

A. A final application may be submitted only by applicants which have received a letter of notification authorizing submission of a final application. Final applications must be received by the Agency no later than 45 days after the date of the letter of notification. The format for final applications is set out in rule 6 MCAR § 2.2407 B. Final applications will be reviewed for completeness and compliance with the rules of this program. Incomplete applications or applications which differ substantially from preliminary applications will not be granted and a written statement citing the reasons for rejection will be provided to the applicant. Eligible final applications will be funded based on the priorities of this program and the availability of grant funds. Receipt of a letter of notification is not a guarantee that a grant will be made to the submitter of a final application. A grant award shall be made by contract as set out in rule 6 MCAR § 2.2408.

B. The final application shall contain at least the following elements:

1. A work program/schedule which contains the following:

a. A statement of the existing or emerging energy problem(s) which are to be investigated with the grant. This statement should identify how the problem(s) are affecting or will affect the applicant and the means the recipient is planning to use to alleviate the problem(s).

b. A description of the activities which the grant makes possible. The description of activities should identify

the expected results and/or products and should be in sufficient detail to enable the Agency to measure progress and to identify the person responsible for the completion of each activity. The description should include expected completion dates, by particular activity. Each work element should be assigned to a specific staff member or consultant.

c. A statement identifying the way in which the grant will improve the governing body's capability to address local energy problems and a schedule indicating when and how this will be accomplished.

2. Designation of a lead applicant.

The grant applicant should designate a lead applicant. Lead applicant means an agency, organization or individual who will be responsible for completion of the agreed-upon work program.

3. Local share.

A detailed statement identifying the source(s) and amount of the local share. The local share may be in cash or in-kind or a combination of cash and in-kind.

4. Signature/resolution.

The application shall be submitted to the Agency only if accompanied by a resolution passed at an official meeting of the governing body and signed by the authorized person.

6 MCAR § 2.2408. Grant contract.

A. The final step in the awarding of a Planning Grant or an Implementation Grant is execution of a grant contract. The grant contract shall be based upon the final application. The contract shall specify the amount of the grant to the recipient and the duration of the grant. The contract shall include assurance that the local share will be provided and that the agreed-upon work program will be carried out. A grant contract based upon a joint application will be executed by the lead applicant. Amendments may only be made in writing signed by both parties. Extensions must be justified in writing. Planning grant extensions shall not exceed 90 days. Implementation grant extensions will be based on the scope of work remaining and a reasonable period in which to complete all work.

B. Funding period.

Grants will be funded for the following periods.

1. Planning Grants will be approved for a period of up to one year.
2. Implementation Grants will be approved for a period to be agreed upon by the grantee and the Agency and specified in the contract, based upon the scope of the implementation activities funded and a reasonable work schedule, or timetable.

C. Grant ratios.

1. Planning Grants shall not exceed 75% of the total first year proposed budget;
2. The Agency may award an Implementation Grant up to 50% of the project cost, but not to exceed $50,000.00;
3. No single grant shall excced $50,000.00.

D. Disbursement schedule.

Grant funds will be disbursed to the grantee according to invoices submitted on the following schedule:

1. 50% during the first month of the grant contract funding period;
2. 40% upon completion of half of the agreed-upon work program;
3. 10% upon completion of a satisfactory evaluation according to 6 MCAR § 2.2409.

E. Required reports.

The grantee shall submit to the Agency quarterly work progress reports in a format prescribed by the Agency. Reporting requirements will vary depending upon the scope of work proposed and approved by the Agency for funding. In addition, the grantee shall provide the Agency with three copies and a camera-copy of a grantee's final community energy plan.

F. Records.

The grantee shall maintain for a period of not less than three years from the date of the execution of the contract all records relating to the recipt and expenditure of grant monies.

G. Monitoring grant results.

As a condition of accepting a grant a grantee ~~will~~ shall be expected to:

1. Document on an annual basis the results of the grant program for a period of up to 3 years from the date of the execution of the contract (for example, energy savings, financial savings, or any other documentation related to the results of the grant), and,
2. Participate in at least one Agency workshop at which the grantee will present the results of the grant program.

H. Contract deviations.

1. No grant funds shall be used to finance activities by consultants or local staff not included in the grant contract, unless agreed upon in writing by the Agency.
2. Unless agreed upon by the grantee and the Agency it will not be permissible for 100% of all energy-related activities to be contracted out to consultants.

6 MCAR § 2.2409. Evaluation.

The Agency shall conduct a final evaluation within 60 days of the submission by the grantee to the Agency of final community energy plan ~~or~~ and all the required reports and financial documents. The evaluation shall assess:

~~A.~~ ~~Whether the local share contributed was equal to or greater than 25% of the total cost of a first year Planning Grant;~~

~~B. Whether the local share contributed was equal to or greater than 50% of an Implementation Grant;~~

~~C.~~ A. Whether the agreed-upon work program was completed;

~~D.~~ B. Whether the governing body has formally reviewed the completed energy plan.

Upon completion of a satisfactory evaluation the remaining 10% of the grant shall be disbursed to the grant recipient. If the results of the evaluation are unfavorable to the grantee and the grantee does not agree with the findings of the evaluation, the grantee may request a ~~hearing~~ review before the Agency.