

#12

COMMISSIONER OF TRADE AND
ECONOMIC DEVELOPMENT

IN THE MATTER OF THE PROPOSED
RULES OF THE MINNESOTA PUBLIC
FACILITIES AUTHORITY GOVERNING
THE ADMINISTRATION OF THE
INDEPENDENT WASTEWATER TREATMENT
GRANTS PROGRAM

STATEMENT OF NEEDS
AND REASONABLENESS

INTRODUCTION:

This Statement of Needs and Reasonableness describes the rules proposed for the operation of the Independent Wastewater Treatment Grants Program. The format used in this statement is as follows: each rule is first stated, followed by a discussion of the necessity of the proposed rule, and its reasonableness.

7380.0500 SCOPE OF RULES

PARTS 7380.0500 TO 8390.0582 PROVIDES FOR THE AWARDING OF GRANTS BY THE MINNESOTA PUBLIC FACILITIES AUTHORITY AS PROVIDED IN MINNESOTA STATUTES CHAPTER 446A, TO MUNICIPALITIES FOR WASTEWATER TREATMENT PROJECTS CERTIFIED BY THE COMMISSIONER OF THE MINNESOTA POLLUTION CONTROL AGENCY, AS PROVIDED IN MINN. STAT. 116.16 TO 116.181, AND CHAPTER 7075.

THE EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL ASSIST MUNICIPALITIES IN DETERMINING WHICH GRANTS OR LOANS TO APPLY FOR TO FINANCE ELIGIBLE PROJECTS AND THE MANNER IN WHICH THE MUNICIPALITY SHALL PAY FOR ITS PORTION OF THE PROJECT COST.

MUNICIPALITIES MAKING APPLICATION TO THE AUTHORITY MUST COMPLY WITH THE REQUIREMENTS OF THE POLLUTION CONTROL AGENCY INDEPENDENT GRANT PROGRAM RULES IN CHAPTER 7075, IN ORDER TO RECEIVE THE REQUIRED CERTIFICATION OF THE COMMISSIONER OF THE AGENCY, BEFORE TO ANY DETERMINATION BY THE AUTHORITY ON THE MUNICIPALITY'S APPLICATION.

THE AUTHORITY SHALL, AS PROVIDED IN MINNESOTA STATUTES, SECTION 446A.051, REVIEW THE PROPOSED PROJECT FINANCING FOR A MUNICIPAL PROJECT CERTIFIED BY THE COMMISSIONER OF THE AGENCY TO DETERMINE IF THE MUNICIPALITY HAS DEMONSTRATED IN ITS APPLICATION THAT:

- A. THE TOTAL FINANCING OF THE PROJECT IS ASSURED; AND
- B. THAT THE MUNICIPALITY'S FINANCIAL PLAN TO PAY FOR ITS PORTION OF THE PROJECT IS FEASIBLE.

This part is necessary as it provides a program summary of the Independent Wastewater Treatment Grants Program requirements so as to facilitate potential applicants the ability to determine the suitability of the program to the applicant's needs. It is reasonable as it is as provided in Minn. Stat. 116.16 to 116.181, and Minn. Stat., Chapter 446A.

7380.0510 DEFINITIONS

THE DEFINITIONS IN MINNESOTA STATUTES, SECTION 116.16, SUBDIVISION 2, AND PART 7380.0410 APPLY TO PARTS 7380.0500 TO 7380.0582.

This statement is necessary to inform applicants where the meanings to terms used in this part may be found. It is reasonable to provide such a reference and to provide statutory authority form use of a definition.

7380.0520 STATE INDEPENDENT GRANTS PROGRAM.

SUBP. 1 GRANTS FOR CERTIFIED PROJECTS. THE AUTHORITY SHALL AWARD STATE INDEPENDENT GRANTS TO MUNICIPALITIES FOR PROJECTS, CERTIFIED BY THE COMMISSIONER OF THE AGENCY, AS PROVIDED IN MINNESOTA STATUTES, SECTION 116.18, SUBDIVISIONS 3A TO 3D. THE AMOUNT TO BE AWARDED BY THE AUTHORITY MUST BE EQUAL TO 50 PERCENT OF THE ELIGIBLE PROJECT COST AS PROVIDED IN THE AGENCY RULES, OR IF THE POPULATION OF THE MUNICIPALITY IS 25,000 OR LESS, 80 PERCENT OF THE ELIGIBLE PROJECT COST, AS PROVIDED IN THE AGENCY RULES.

SUBP. 2 GRANT LIMITATION. UNTIL DECEMBER 31, 1990, THE AUTHORITY SHALL AWARD NOT MORE THAN 20 PERCENT OF THE TOTAL AMOUNT OF GRANTS AWARDED UNDER THIS PART TO ANY MUNICIPALITY IN ANY FISCAL YEAR.

SUBP. 3 ECONOMIC DEVELOPMENT SET ASIDE. THE AUTHORITY SHALL SET ASIDE UP TO TEN PERCENT OF THE MONEY TO BE AWARDED AS GRANTS UNDER THIS PART IN ANY FISCAL YEAR FOR MUNICIPALITIES HAVING SUBSTANTIAL ECONOMIC DEVELOPMENT PROJECTS THAT CANNOT COME TO FRUITION WITHOUT MUNICIPAL WASTEWATER TREATMENT IMPROVEMENTS.

AFTER THE AUTHORITY HAS ALLOCATED THE FIRST 90 PERCENT OF THE TOTAL AVAILABLE MONEY FOR THE FISCAL YEAR TO MUNICIPALITIES IN ACCORDANCE WITH AGENCY PRIORITIES, THE SET-ASIDE MUST BE USED BY THE AUTHORITY TO AWARD GRANTS TO THE REMAINING MUNICIPALITIES THAT HAVE BEEN IDENTIFIED BY THE AUTHORITY.

SUBP. 4 REIMBURSEMENT. THE AUTHORITY MAY AWARD GRANTS UNDER THIS PART TO REIMBURSE MUNICIPALITIES WILLING TO PROCEED WITH PROJECTS AND BE REIMBURSED IN A LATER YEAR IF AN APPROPRIATION OF SUFFICIENT FUNDS HAS BEEN MADE UNDER MINNESOTA STATUTES, SECTION 116.18, SUBDIVISION 1, FOR THAT YEAR.

SUBP. 5 REIMBURSEMENT GRANT PERCENTAGES. A MUNICIPALITY AWARDED A STATE INDEPENDENT GRANT FOR REIMBURSED FOR A PROJECT SHALL RECEIVE AN ADDITIONAL FIVE PERCENT OF THE TOTAL ELIGIBLE PROJECT CONSTRUCTION COST BEYOND THE PERCENTAGE TO WHICH THE MUNICIPALITY IS ENTITLED UNDER SUBPART 1.

It is necessary to inform applicants in Subpart 1 to Subpart 5, of Part 7380.0520 of the scope, requirements, and restrictions of the grant program. It is reasonable as it is as provided in Minn. Stat. 116.16 to 116.181.

7380.0530 ELIGIBLE COSTS

- SUBP. 1 ELIGIBLE COSTS FOR GRANT APPLICATIONS ARE THE ELIGIBLE COSTS PROVIDED IN THE AGENCY INDEPENDENT STATE GRANT PROGRAM RULES AND CERTIFIED BY THE COMMISSIONER.

It is necessary to identify what constitutes eligible cost for a project funded by the State Independent Grants Program in order that a potential applicant may judge suitability of the program to the applicant's needs. It is reasonable as it is as provided in the Act and Minn. Stat. 368.01, Subd. 1 or 1a.

7380.0540 CAPITAL COST COMPONENT GRANT PROGRAM

- SUBP. 1 GRANTS FOR CERTIFIED PROJECTS. THE AUTHORITY SHALL AWARD CAPITAL COST COMPONENT GRANTS TO MUNICIPALITIES FOR PROJECTS CERTIFIED BY THE COMMISSIONER.
- SUBP. 2 AMOUNT SET ASIDE. THE AUTHORITY SET ASIDE UP TO \$1,500,000 OF THE FUNDS TO BE AWARDED AS GRANTS UNDER PART 7380.0520, SUBPART 1, IN ANY FISCAL YEAR FOR CAPITAL COST COMPONENT GRANTS.
- SUBP. 3 PROJECT AMOUNT. THE AMOUNT OF THE AWARD GRANTED BY THE AUTHORITY SHALL BE AS PROVIDED IN THE AGENCY RULES.

This part is necessary as it provides for a program which provides grant funds for a specific use which may be suitable for the specific needs of an applicant and informs applicants of the requirements of the program and the dollar amount of funds available on a yearly basis. It is reasonable as it is as provided in Minn. Stat. 116.181.

7380.0550 INDIVIDUAL ON-SITE TREATMENT SYSTEMS PROGRAM

- SUBP. 1 GRANTS FOR CERTIFIED PROJECTS. THE AUTHORITY SHALL AWARD INDIVIDUAL ON-SITE TREATMENT SYSTEMS GRANTS TO MUNICIPALITIES FOR PROJECTS CERTIFIED BY THE COMMISSIONER.
- SUBP. 2 THE AUTHORITY MAY SET ASIDE UP TO TEN PERCENT OF THE FUNDS TO BE AWARDED AS GRANTS AS PROVIDED IN PART 7380.0520, SUBPART 1, IN ANY FISCAL YEAR, UP TO A MAXIMUM OF \$1,000,000, FOR THE AWARD OF GRANTS TO MUNICIPALITIES TO REIMBURSE OWNERS OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT SYSTEMS FOR 50 PERCENT OF THE COSTS OF UPGRADING OR REPLACING THE SYSTEMS, AS PROVIDED IN PART 7075.1250, SUBPART 2.

This part is necessary as it provides for a program which provides grant funds for a specific use which may be suitable for specific needs of an applicant. It is also necessary to inform applicants of the requirements of the program, and the dollar amount of funds available on a yearly basis. It is reasonable as it is as provided by Minn. Stat. 116.181.

7380.0560 CORRECTIVE ACTION GRANTS

- SUBP. 1 IN GENERAL. THE AUTHORITY SHALL AWARD CORRECTIVE ACTION GRANTS TO MUNICIPALITIES CERTIFIED BY THE COMMISSIONER.

Part 7380.0560 is necessary as it informs the applicant of the availability of grant funds for a specific use which may be suitable for the particular needs of an applicant. It is reasonable as it is as provided in Minn. Stat. 116.181.

7380.0570 APPLICATION PROCESS

- SUBP. 1 IN GENERAL. TO APPLY FOR STATE INDEPENDENT GRANTS OR THE OTHER GRANTS PROGRAMS AS PROVIDED UNDER PARTS, 7380.520, 7280.0530, 7380.0540, 7380.0550, AND 7380.0560, APPLICATIONS BY MUNICIPALITIES SHALL BE MADE TO THE AUTHORITY ON FORMS PROVIDED BY THE AGENCY WHICH REQUIRES INFORMATION PRESCRIBED BY THE AGENCY RULES.

- SUBP. 2 NOTICE OF TAKING APPLICATIONS. APPLICATIONS MUST BE TAKEN AS PROVIDED BY THE AGENCY INDEPENDENT GRANT PROGRAM RULES. THE APPLICATION PERIOD FOR ANY OF THE GRANTS PROGRAMS SHALL BE ESTABLISHED BY THE COMMISSIONER.

- SUBP. 3 APPLICATION PROCESSING. THE AUTHORITY SHALL FORWARD AN APPLICATION TO THE AGENCY WITHIN TEN DAYS OF RECEIPT OF AN APPLICATION BY THE AUTHORITY. THE AGENCY WILL ACCEPT AND REVIEW APPLICATIONS AS PROVIDED IN THE PROGRAM RULES AS PROVIDED IN CHAPTER 7075.

Part 7380.0570, Subparts 1 to 3 are necessary to inform an applicant that the Authority will forward the application to the Agency within a specified time period, and that the Agency will review the application in accordance with its rules for such projects. It is reasonable because it is consistent with Minn. Stat. 116.16, Subp. 9.

- SUBP. 4 CERTIFIED APPLICATIONS. WHEN AN APPLICATION CERTIFIED BY THE COMMISSIONER IS RETURNED TO THE AUTHORITY, ON OR BEFORE THE FIRST BUSINESS DAY OF THE MONTH, THE AUTHORITY SHALL CONSIDER THE APPLICATION AT THE AUTHORITY MEETING THAT MONTH. IF A CERTIFIED APPLICATION IS RECEIVED AFTER THE FIRST BUSINESS DAY OF THE MONTH AND CAN BE REVIEWED BY THE EXECUTIVE DIRECTOR BEFORE TO THE AUTHORITY AGENDA DEADLINE, THE AUTHORITY MAY CONSIDER THE APPLICATION AT THE MEETING IN THAT MONTH.

It is necessary to inform applicants of the process which will be followed by the Authority in handling of an application and the time constraints involved in that process. It is reasonable as the Authority requires a period of time to reach a determination of whether to approve or disapprove a loan application.

- SUBP. 5 COMPLETED APPLICATIONS. A LOAN APPLICATION IS COMPLETE FOR THE AUTHORITY'S PURPOSES WHEN THE EXECUTIVE DIRECTOR RECEIVES ALL

DOCUMENTATION AND EXHIBITS REQUIRED FOR THE AUTHORITY IS ABLE TO MAKE THE DETERMINATION REQUIRED BY MINNESOTA STATUTES, SECTION 446A.051.

It is necessary to inform an applicant that the Executive Director shall determine if documentation and information which has been submitted by the applicant provides a complete and accurate account of the project financing in order that the Authority can make an informed judgment of the municipality's capacity to comply with the terms and conditions of the financing to be provided to the applicant. It is reasonable as it is consistent with the standard granting process and required by the statute.

- SUBP. 6 INCOMPLETED APPLICATIONS. IF THE EXECUTIVE DIRECTOR DETERMINES, RELATIVE TO THE AUTHORITY'S REQUIREMENTS, THAT AN APPLICATION IS INCOMPLETE, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE APPLICANT OF SPECIFIC DEFICIENCIES IN THE APPLICATION. THE APPLICANT HAS 30 DAYS FROM THE DATE OF MAILING OF THE EXECUTIVE DIRECTOR'S NOTIFICATION TO COMPLETE THE APPLICATION. IF THE APPLICATION IS NOT COMPLETED AND RECEIVED BY THE EXECUTIVE DIRECTOR WITHIN 30 DAYS FROM THE DATE OF MAILING, THE APPLICATION IS CONSIDERED REJECTED AND THE APPLICANT, SUBJECT TO AGENCY RULES, SHALL REAPPLY TO BE FURTHER CONSIDERED.

It is necessary to inform an applicant of the procedures that will be followed if an application has been determined to be incomplete by the Authority and the time frame in which an applicant has to supply the information required by the Authority. It is reasonable since this procedure allows for sufficient time for and ensures that all applicants are afforded an opportunity to complete their application.

- SUBP. 7 APPLICATIONS NOT RECEIVING CERTIFICATION. AN APPLICATION NOT CERTIFICATION BY THE COMMISSIONER WILL NOT RECEIVE CONSIDERATION FOR FINANCIAL ASSISTANCE BY THE AUTHORITY. THE EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL NOTIFY THE APPLICANT OF THE REJECTION OF THE APPLICATION BY THE AUTHORITY WITHIN TEN DAYS OF THE REJECTION OF THE APPLICATION BY THE AUTHORITY.

It is necessary to inform an applicant of the procedures that will be followed should an application not receive certification by the Commissioner of the Agency and the consequences of not receiving certification. It is reasonable as it is consistent with Minn. Stat. 446A.06, Subd. 1.

- SUBP. 8 REJECTION OF APPLICATIONS BY THE AUTHORITY. AN APPLICATION FOR FINANCIAL ASSISTANCE MAY BE REJECTED BY THE AUTHORITY FOR THE FOLLOWING REASONS:

- A. FAILURE TO DEVELOP AND DOCUMENT THAT OTHER PROJECT-REQUIRED FUNDING COMMITMENTS HAVE BEEN SECURED, AS PROVIDED IN MINNESOTA STATUTES, SECTION 446A.051;
- B. FAILURE TO SUBMIT A COMPLETED APPLICATION, USING THE PROCEDURE PROVIDED IN SUBPPART 6; AND

- C. FAILURE TO DEMONSTRATE THAT THE MUNICIPALITY'S FINANCIAL PLAN TO PAY FOR ITS PORTION OF THE PROJECT IS FEASIBLE, AS PROVIDED IN MINNESOTA STATUTES, SECTION 446A.051.

It is necessary to summarize the reasons why an application may be rejected by the Authority. It is reasonable because Subp. 6 A, B, and C are consistent with the Act.

7380.0580 AWARD OF GRANTS AND LOANS

- SUBP. 1 IN GENERAL. UPON CERTIFICATION OF AN APPLICATION BY THE AGENCY AND THE REVIEW AND APPROVAL OF THE APPLICATION BY THE AUTHORITY, THE AUTHORITY SHALL MAKE THE AWARD AND NOTIFY THE MUNICIPALITY THAT IT IS TO RECEIVE A GRANT OR LOAN AND PREPARE AND ADVISE THE MUNICIPALITY OF THE GRANT OR LOAN FORMS OR OTHER DOCUMENTS THAT MUST BE EXECUTED TO COMPLETE THE GRANT OR LOAN.
- SUBP. 2 AMENDMENTS TO GRANT AWARD. A MUNICIPALITY THAT SEEKS AN AMENDMENT TO A PREVIOUSLY AWARDED GRANT OR LOAN SHALL FOLLOW THE PROCEDURE IN PART 7380.0570 FOR APPLYING TO THE AUTHORITY.

It is necessary, as provided in Part 7380.0378, Subparts 1 and 2, to inform an approved applicant of the process involved in the awarding of grants and also of the procedures by which an applicant must follow to seek an amendment to a grant or loan award. It is reasonable as it is as provided in Minn. Stat. 116.16, Subd. 11 and 12.

7380.0581 RELEASE OF FUNDS

- SUBP. 1 SUBJECT TO THE AVAILABILITY OF FUNDS, PAYMENTS TO A MUNICIPALITY, WHICH HAVE BEEN CERTIFIED BY THE COMMISSIONER, WILL BE MADE IN ACCORDANCE WITH APPLICABLE FEDERAL AND STATE LAWS GOVERNING THOSE PAYMENTS. HOWEVER, THAT PAYMENTS WILL NOT BE MADE UNTIL THE AUTHORITY HAS DETERMINED THE TOTAL ESTIMATED COST OF THE PROJECT AND ASCERTAINED THAT FINANCING OF THE PROJECT IS ASSURED BY:
- A. A GRANT TO THE MUNICIPALITY BY AN AGENCY OF THE FEDERAL GOVERNMENT WITHIN THE AMOUNT OF FUNDS THEN APPROPRIATED TO THAT AGENCY AND ALLOCATED BY IT TO PROJECTS WITHIN THE STATE;
 - B. A GRANT OF FUNDS APPROPRIATED BY STATE LAW;
 - C. A LOAN AUTHORIZED BY STATE LAW;
 - D. THE APPROPRIATION OF PROCEEDS OF BONDS OR OTHER FUNDS OF THE MUNICIPALITY TO A FUND FOR THE CONSTRUCTION OF THE PROJECT;
OR
 - E. ANY OR ALL OF THE MEANS REFERRED TO IN PARAGRAPHS A TO D;
AND

- F. AN IRREVOCABLE UNDERTAKING, BY RESOLUTION OF THE GOVERNING BODY OF THE MUNICIPALITY TO USE ALL FUNDS SO MADE AVAILABLE EXCLUSIVELY FOR THE CONSTRUCTION OF THE PROJECT, AND TO PAY ANY ADDITIONAL AMOUNT BY WHICH THE COST OF THE PROJECT EXCEEDS THE ESTIMATE, BY THE APPROPRIATION TO THE CONSTRUCTION FUND OF ADDITIONAL MUNICIPAL FUNDS OR THE PROCEEDS OF ADDITIONAL BONDS TO BE ISSUED BY THE MUNICIPALITY; AND
- G. CONFORMITY OF THE PROJECT AND OF THE GRANT OR LOAN APPLICATION WITH THE STATE WATER POLLUTION CONTROL PLAN AS CERTIFIED TO THE FEDERAL GOVERNMENT AND WITH ALL OTHER CONDITIONS UNDER APPLICABLE STATE AND FEDERAL LAW FOR A GRANT OF STATE OR FEDERAL FUNDS OF THE NATURE AND IN THE AMOUNT INVOLVED.

It is necessary to inform municipalities that the Authority will not release funds to an approved applicant unless certain requirements are met by the applicant and the Authority has the funds to fund the project. It is reasonable as it is consistent with the Act and Minn. Stat. 116.16, Subd. 4, and Chapter 446A.

It is also necessary to inform an applicant that the applicant's representations made in the application, as approved by the Authority, must remain in effect if not, the Authority has the right to suspend, terminate or call the grant. It is reasonable as it is standard granting practices.

7380.0582 REPORTS.

DURING THE TERM OF THE GRANT OR LOAN AGREEMENT, THE MUNICIPALITY SHALL MAKE WRITTEN REPORTS TO THE EXECUTIVE DIRECTOR OF THE AUTHORITY ON FORMS PROVIDED BY THE AUTHORITY ON A SCHEDULE DETERMINED BY THE EXECUTIVE DIRECTOR.

It is necessary to inform the loan recipient that reports are required on an as agreed upon basis in order that the Authority may comply with the statutory requirements of the Authority for its activities. It is reasonable as it is required by Minn. Stat. 446A.04, Subd. 7.

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