

COMMISSIONER OF TRADE AND ECONOMIC DEVELOPMENT

#12

STATEMENT OF NEEDS AND REASONABLENESS

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA PUBLIC FACILITIES AUTHORITY GOVERNING THE ADMINISTRATION OF THE WATER POLLUTION CONTROL REVOLVING FUND PROGRAM

INTRODUCTION:

This Statement of Needs and Reasonableness describes the rules proposed for the operation of the Minnesota Water Pollution Control Revolving Fund 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.

7380.0400 PURPOSE:

THE WATER POLLUTION CONTROL REVOLVING FUND ADMINISTERED BY THE MINNESOTA PUBLIC FACILITIES AUTHORITY PROVIDES LOANS AND OTHER FORMS OF FINANCIAL ASSISTANCE FOR CONSTRUCTION OF MUNICIPAL WASTEWATER TREATMENT PLANTS TO ASSURE MAINTENANCE OF PROGRESS TOWARD MUNICIPAL COMPLIANCE, OR IMPLEMENTATION OF NONPOINT SOURCE MANAGEMENT CONTROLS, AS REQUIRED BY THE FEDERAL WATER POLLUTION CONTROL ACT, TO MUNICIPALITIES FOR PROJECTS THAT HAVE BEEN CERTIFIED BY THE MINNESOTA POLLUTION CONTROL AGENCY. THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PROVIDES A CAPITALIZATION GRANT TO THE STATE OF MINNESOTA TO PROVIDE LOANS THROUGH THE AUTHORITY TO ENSURE THAT THE REVOLVING FUND IS AVAILABLE TO FINANCE WATER POLLUTION CONTROL PROJECTS IN PERPETUITY. THE TERMS AND CONDITIONS OF THE LOAN AGREEMENT FOR FINANCIAL ASSISTANCE PROVIDED BY THE AUTHORITY MUST BE IN CONFORMANCE WITH THE FEDERAL WATER POLLUTION CONTROL ACT, UNITED STATE CODE, TITLE 33, PARTICULARLY SECTIONS 1381 TO 1387, THE RULES OF THE AGENCY, AND THIS PART.

The 1987 legislature established the Water Pollution Control Revolving Fund as provided in MN Stat. 446A.07. The Statute established the lending program under the direction of the Minnesota Public Facilities Authority (MN Stat. 446A.03) in the Department of Trade and Economic Development. The statute directs the Authority to operate the fund in compliance with the Federal Water Pollution Control Act, Title 33, and the rules of the Minnesota Pollution Control Agency. It is necessary to inform potential applicants to the Fund of the scope and intent of the program in order that they may judge the applicability of the program for their purposes.

7380.0410 DEFINITIONS:

SUBP. 1. SCOPE. "SCOPE" THE TERMS DEFINED IN THIS PART, IN MINNESOTA STATUTES, SECTION 446A.02, AND IN THE FEDERAL WATER POLLUTION CONTROL ACT, APPLY TO PARTS 7380.0400 TO 7380.0480.

This statement is necessary to define applicability of the definitions given in this part, and to reference the Federal and State Statutes which provide

the definition in which is the case. It is reasonable to provide such definition and to provide statutory authority for use of a definition.

SUBP. 2. ACT. "ACT" MEANS THE FEDERAL WATER POLLUTION CONTROL ACT, AS DEFINED IN MINNESOTA STATUTES, SECTION 446A.02, SUBDIVISION 4.

This term is necessary as it informs readers that Act can only mean the Federal Water Pollution Control Act in the content of the rules. It is reasonable because it adds to the readability of the rules.

SUBP. 3 AGENCY. "AGENCY" MEANS THE MINNESOTA POLLUTION CONTROL AGENCY.

This term is necessary to clarify that agency can only mean the Pollution Control Agency in the content of the rules. It is reasonable since the shortened term allows for easier reading of the rules.

SUBP. 4 APPLICANT "APPLICANT" MEANS:

A. A GOVERNMENTAL UNIT AS DEFINED IN MINNESOTA STATUTES 446A.02, SUBDIVISION; 5 OR,

B. A MUNICIPALITY AS PROVIDED IN THIS PART.

This term is necessary as it provides for a synonymous term for municipality and governmental unit which when used in the body of the rules connotes that the municipality is in the application stage when the term is used in various parts of the rules and has not had its application approved or turned down by the Authority. It is reasonable because it informs the reader that specific matters must be dealt with during the application process prior to approval or disapproval of the application.

SUBP. 5 AVERAGE COUPON RATE. "AVERAGE COUPON RATE" MEANS THE WEIGHTED AVERAGE OF BONDS AT THE VARIOUS MATURITY DATES AS PROVIDED IN THE BOND.

This definition is necessary since it describes one of the sources used by the Authority to establish loan interest rates. It is reasonable because it provides a basis upon which loan interest rates may be based.

SUBP. 6 DEDICATED SOURCES OF REVENUE FOR REPAYMENT. "DEDICATED SOURCES OF REVENUE FOR REPAYMENT" MEANS ONE OR MORE DEDICATED SOURCES OF REVENUE ESTABLISHED BY THE MUNICIPALITY TO INSURE REPAYMENT OF THE LOAN FROM THE AUTHORITY. DEDICATED SOURCES OF REVENUE MAY BE: SPECIAL ASSESSMENTS; GENERAL TAXES OR GENERAL OBLIGATION BONDS; SEWER SERVICE CHARGES OR OTHER SOURCES, ACCEPTABLE TO THE AUTHORITY.

This definition is necessary as it informs the public that dedicated sources of repayment are required as evidence of the capacity to repay the loan, what may comprise a dedicated source of repayment, and by what mechanism the municipality will convey the obligation to repay the loan from the Authority. This is reasonable as it permits the municipality to utilize whatever resources it may wish, subject to acceptance by the Authority to demonstrate financial capacity to repay the loan from the Authority which is required by the Act.

SUBP. 7 ALLOWABLE COSTS. ALLOWABLE COSTS THAT MAY BE FINANCED BY THE AUTHORITY, PROVIDED THE ALLOWABLE COST ITEM IS REASONABLE OR NECESSARY, INCLUDE THOSE PROVIDED IN THE LIST OF COSTS GIVEN BELOW. THE LISTING IS ONLY REPRESENTATIVE OF ALLOWABLE COSTS THAT MAY BE FINANCED BY A LOAN FROM THE AUTHORITY. OTHER ALLOWABLE COSTS MAY ALSO FALL WITHIN THE LANGUAGE OF THE ACT, UNITED STATES CODE, TITLE 33, SECTIONS 1381-1387.

- A. ACQUISITION COSTS OF LAND, BUILDING, OR BOTH;
- B. SITE PREPARATION;
- C. CONSTRUCTION COSTS;
- D. ENGINEERING COSTS;
- E. COSTS OF EQUIPMENT, MACHINERY, OR BOTH;
- F. BOND ISSUANCE COSTS;
- G. UNDERWRITING OR PLACEMENT FEES;
- H. TRUSTEE FEES;
- I. FEES OF GUARANTOR, INSURER, OR FINANCIAL INSTITUTION OTHER THAN THE AUTHORITY, WHICH PROVIDE LETTERS OF CREDIT, SURETY BONDS, OR EQUIVALENT SECURITY;
- J. AUTHORITY FEES, INCLUDING APPLICATION AND GUARANTY FEES OF THE AUTHORITY AND ADMINISTRATIVE COSTS AND EXPENSES;
- K. CERTAIN CONTINGENCY COSTS;
- L. INTEREST COSTS DURING CONSTRUCTION;
- M. LEGAL FEES, INCLUDING THOSE OF THE AUTHORITY; AND
- N. DEBT SERVICE RESERVE FUND.

It is necessary to identify what constitutes eligible costs for a project financed by the Authority. It is reasonable since it is consistent with the Act.

SUBP. 8 EXECUTIVE DIRECTOR. "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE PUBLIC FACILITIES AUTHORITY.

This term is necessary because it informs the reader that Executive Director means the Executive Director of the Authority. It is reasonable as the shortened term adds to the readability of the rules.

SUBP. 9 FUND. "FUND" MEANS THE MINNESOTA WATER POLLUTION CONTROL REVOLVING FUND CREATED BY MINN. STAT. 446A.07, AS AMENDED.

The definition is necessary as it informs the reader that Fund can only mean the Minnesota Water Pollution Control Revolving Fund in the

content of rules. It is reasonable as the shortened term provides for greater readability of the rules.

- SUBP. 10 INTENDED USE PLAN.** "INTENDED USE PLAN" MEANS THE DOCUMENT PREPARED ANNUALLY BY THE AGENCY AND SUBMITTED TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY THAT IDENTIFIES THE INTENDED USES OF THE AMOUNTS AVAILABLE TO THE FUND, INCLUDING A LIST OF WASTEWATER TREATMENT PROJECTS AND OTHER ELIGIBLE ACTIVITIES SCHEDULED TO BE FUNDED DURING THE FISCAL YEAR.

This definition is necessary because it identifies a document which is required by the U.S. Environmental Agency and which reports what eligible projects and activities the Authority may provide financing for in the fiscal year. It is reasonable as the Authority shall only provide funds for those projects and activities identified within a given year.

- SUBP. 11 LOAN AGREEMENT.** "LOAN AGREEMENT" MEANS THE LOAN AGREEMENT OR FINANCING AGREEMENT BETWEEN THE AUTHORITY AND THE MUNICIPALITY THAT PROVIDES ALL TERMS AND CONDITIONS OF THE LOAN.

It is necessary to provide a definition of a "loan agreement" as the term is used throughout the rules. It is reasonable as the Authority is required by the Act to make loans to an applicant which is able to comply with certain terms and conditions which are provided in a loan agreement.

- SUBP. 12 MUNICIPAL BOND INDEX.** "MUNICIPAL BOND INDEX" MEANS THE INDEX BASED ON THE YIELD THAT ABOUT 500 MAJOR ISSUERS, MAINLY OF INVESTMENT GRADE, WOULD PAY ON NEW LONG-TERM (20 YEARS) GENERAL-OBLIGATION, TAX-EXEMPT BONDS. THE INDEX IS PUBLISHED EACH FRIDAY IN THE WALL STREET JOURNAL.

This term is defined as it is necessary to provide the meaning for a term not in common usage outside of a financial institution. It is reasonable as the Municipal Bond Index provides the basis upon which interest rates on loans from the Authority are based.

- SUBP. 13 MUNICIPALITY.** "MUNICIPALITY" MEANS ANY COUNTY, CITY AND TOWN, THE METROPOLITAN WASTE CONTROL COMMISSION ESTABLISHED IN CHAPTER 473 AND THE METROPOLITAN COUNCIL WHEN ACTING UNDER THE PROVISIONS OF THAT CHAPTER OR AN INDIAN TRIBE OR AN AUTHORIZED INDIAN TRIBAL ORGANIZATION, AND ANY OTHER GOVERNMENTAL SUBDIVISION OF THE STATE RESPONSIBLE BY LAW FOR THE PREVENTION, CONTROL, AND ABATEMENT OF WATER POLLUTION IN ANY AREA OF THE STATE.

This definition is necessary to specifically identify what entities constitute an eligible applicant. It is reasonable because it provides identification of eligible entities and is consistent with the definitions provided in the Act, Minn Stat. 446A.02 for government unit and the rules of the Agency.

- SUBP. 14 POVERTY LEVEL.** "POVERTY LEVEL" MEANS THAT LEVEL OF INCOME IDENTIFIED AS THE POVERTY LEVEL BY THE UNITED STATES CENSUS BUREAU: OR BY ANOTHER FEDERAL OR STATE AGENCY: OR BY AN ACCREDITED INDEPENDENT SURVEY, WHICH MOST ACCURATELY MEASURES THE LEVEL OF POVERTY WITHIN A PROJECT SERVICE AREA.

It is necessary to define poverty levels since the interest rates on loans made by the Authority to a municipality is reduced if the percentage of households in the project service area at or below the poverty level is above the national average. It is reasonable as it is consistent with other financing programs as a socio-economic consideration relative to setting interest rates.

- SUBP. 15 PROJECT COMPLETION.** "PROJECT COMPLETION" MEANS THE DATE ON WHICH OPERATION OF THE TREATMENT WORKS ARE INITIATED OR CAPABLE OF BEING INITIATED.

This definition is necessary to differentiate between the term as used by the Agency relative to compliance with water pollution control criteria and the Authority which uses the term relative to the project being able to generate an income stream which is irrevocably pledged to the Authority until the municipality's loan from the Authority is repaid. It is reasonable as it is consistent with the Act.

- SUBP. 16 PROJECT SERVICE AREA.** "PROJECT SERVICE AREA" MEANS THE SEWER SERVICE AREA DIRECTLY SERVED BY THE PROJECT BEING CONSTRUCTED.

It is necessary to provide a definition for "project service area" in order that applicants be informed of the specific meaning of a term which is taken into consideration in the determining of an interest rate to charge an applicant. It is reasonable as it is consistent with the Act.

- SUBP. 17 QUARTERLY SET RATE.** "QUARTERLY SET RATE" MEANS THE MAXIMUM RATE OF INTEREST SET FOR A CALENDAR QUARTER AND SHALL BE DETERMINED BY THE AUTHORITY USING AS GUIDANCE THE AVERAGE OF THE MUNICIPAL BOND INDEX FOR THE FOUR WEEKS PRIOR TO THE BEGINNING OF THE QUARTER MINUS 100 BASIS POINTS FOR 20 YEAR TERM LOANS. FOR LOANS OF LESS THAN 20 YEARS, THE QUARTERLY SET RATE WILL BE DETERMINED BY THE AUTHORITY USING AS GUIDANCE AN INDEX OF INVESTMENT GRADE BOND ISSUES HAVING A MATURITY EQUAL TO THE TERM OF THE LOAN BEING REQUESTED BY THE MUNICIPALITY MINUS A DISCOUNT OF FIVE (5) BASIS POINTS FOR EACH YEAR LESS THAN TWENTY (20) YEARS.

This definition is necessary since it describes the sources and the process used by the Authority for establishing a market interest rate which is required by the Act. It is reasonable because it is consistent with the Act.

- SUBP. 18 SEWER SERVICE AREA.** "SEWER SERVICE AREA" MEANS THE SERVICE AREA WHICH UTILIZES THE INDIVIDUAL SEWAGE TREATMENT PLANT.

This definition is necessary as it provides for a specific meaning of a term which is utilized by the Authority to determine the interest rate to be charged an applicant. It is reasonable as it is consistent with the Act.

- SUBP. 19 SEWER SERVICE CHARGE.** "SEWER SERVICE CHARGE" MEANS A CHARGE LEVIED UPON THE USERS OF THE SEWER SERVICE SYSTEM TO PAY FOR THE USE OF THE SYSTEM. INCLUDE TAX ASSESSMENT, SPECIAL ASSESSMENTS, USER FEES, OR REVENUES IDENTIFIED BY ANY OTHER NAME.

This definition is necessary to inform a municipality what types of revenues paid to the municipality by the household in the sewer service area may be measured against the one and one-half percent of the median household income guidelines which, if exceeded, entitles the municipality to a 100 basis point reduction in the interest rate charged by the Authority on the loan to the municipality.

It is reasonable since it is consistent with other financing programs.

FINANCIAL ASSISTANCE APPLICATIONS

7380.0420 PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATIONS PROCESSING.

SUBP. 1 IN GENERAL. TO APPLY FOR FINANCIAL ASSISTANCE FROM THE AUTHORITY, ELIGIBLE APPLICANTS IDENTIFIED IN THE ANNUAL INTENDED USE PLAN PREPARED BY THE AGENCY, MAY SUBMIT AN APPLICATION AT ANY TIME TO THE EXECUTIVE DIRECTOR OF THE AUTHORITY.

PRIOR TO THE SUBMISSION OF AN APPLICATION TO THE AUTHORITY, THE MUNICIPALITY SHALL CONTACT THE AUTHORITY TO RECEIVE THE AUTHORITY'S ADVICE UNDER MINNESOTA STATUTES, SECTION 446A.051.

It is necessary that the applicant know at what times an application can be submitted, to whom the application needs to be submitted to, and from whom the application forms may be obtained. It is reasonable because it is consistent with Minnesota Statutes 446A.051.

THE AUTHORITY SHALL FORWARD THE APPLICATION TO THE AGENCY WITHIN TEN DAYS AFTER RECEIPT OF THE APPLICATION BY THE AUTHORITY. THE AGENCY WILL ACCEPT AND REVIEW THE APPLICATION AS PROVIDED IN ITS RULES.

This paragraph is necessary to inform applicants 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 Minnesota Statutes 446A.07, Subd. 5.

SUBP.2 DEADLINE FOR SUBMISSION. WHEN AN APPLICATION THAT HAS BEEN CERTIFIED BY THE COMMISSIONER OF THE AGENCY IS RETURNED TO AND RECEIVED BY 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 THE CERTIFIED APPLICATION IS RECEIVED AFTER THE FIRST BUSINESS DAY OF THE MONTH AND CAN BE REVIEWED BY THE EXECUTIVE DIRECTOR PRIOR TO THE AUTHORITY AGENDA DEADLINE, THE AUTHORITY MAY CONSIDER THE APPLICATION AT THE MEETING IN THAT MONTH.

It is necessary to establish the method for, and the time period during which the Authority will accept applications which have received certification from the Commissioner of the Agency. It is reasonable since this method allows sufficient time for and ensures that all applicants are informed of the time period during which applicants will be accepted after receiving a certified application from the Commissioner of the Agency.

SUBP. 3. COMPLETED APPLICATIONS. AN APPLICATION CERTIFIED BY THE COMMISSIONER OF THE AGENCY IS CONSIDERED COMPLETE WHEN THE EXECUTIVE DIRECTOR OF THE AUTHORITY DETERMINES THAT THE EXHIBITS AND DOCUMENTATION WHICH HAVE BEEN RECEIVED PROVIDE A FULL AND ACCURATE ACCOUNT OF THE PROJECT FINANCING TO THE EXTENT THAT THE AUTHORITY IS ABLE TO MAKE AN INFORMED DETERMINATION ON THE APPLICATION.

It is necessary to inform an applicant that the Executive Director shall determine if all the required documentation and information has been submitted by the applicant in order for the Authority to make an informed judgement 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 Act and Minnesota Statutes 446A.07, Subd. 6, Subd. 7 and Subd. 9.

SUBP. 4. INCOMPLETED APPLICATIONS. IF AN INCOMPLETE APPLICATION IS RECEIVED, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE APPLICANT IN WRITING OF SPECIFIC DEFICIENCIES IN THE APPLICATION. THE APPLICANT HAS 60 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 THOSE 60 DAYS, THE APPLICATION IS DEEMED TO BE REJECTED AND THE APPLICANT, SUBJECT TO AGENCY RULES, SHALL NEED TO 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. 5. APPLICATIONS NOT RECEIVING CERTIFICATION. AN APPLICATION NOT RECEIVING CERTIFICATION BY THE COMMISSIONER OF THE AGENCY 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 DETERMINATION.

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 Minnesota Statutes 446A.07, Subd. 6.

SUBP. 6. REJECTION OF LOAN APPLICATIONS BY THE AUTHORITY. THE AUTHORITY MAY REJECT AN APPLICATION FOR FINANCIAL ASSISTANCE FOR THE FOLLOWING REASONS.

- A. FAILURE TO OBTAIN CERTIFICATION OF THE COMMISSIONER OF THE AGENCY FOR THE PROJECT.
- B. FAILURE TO DEVELOP AND DOCUMENT DEDICATED SOURCES OF REVENUE SUFFICIENT IN THE JUDGEMENT OF THE AUTHORITY TO INSURE REPAYMENT OF THE LOAN TO THE AUTHORITY.

- C. FAILURE TO SUBMIT A COMPLETED APPLICATION USING THE PROCEDURE PROVIDED IN PART 7380.0420, SUBP. 4; AND
- D. FAILURE TO DEMONSTRATE THE LEGAL, MANAGERIAL, INSTITUTIONAL AND FINANCIAL CAPACITY TO PROVIDE FOR ADEQUATE OPERATION, MAINTENANCE, AND REPLACEMENT COST OF THE MUNICIPAL FACILITY FOR THE TERM OF THE LOAN.

It is necessary to summarize the reasons why an application may be rejected by the Authority. It is reasonable because Subp. 6, A,B,C and D are consistent with Minnesota Statutes 446A.07, Subd. 6, Subd. 7 and Subd. 9.

AUTHORITY EVALUATION PROCEDURE

7380.0430

- SUBP. 1 **IN GENERAL.** THE AUTHORITY SHALL EVALUATE APPLICATIONS CERTIFIED BY THE COMMISSIONER OF THE AGENCY TO DETERMINE THE APPLICANT'S CAPACITY TO COMPLY WITH THE TERMS AND CONDITIONS OF THE ACT AND THE RULES OF THE AUTHORITY AS PROVIDED IN THIS PART.

It is necessary to inform an applicant on what basis and by what criteria an application will be judged by the Authority to evaluate if an application can be approved by the Authority. It is reasonable as it is consistent with the Act and Minnesota Statutes 446A.07, Subd. 7 and Subd. 9.

THE APPLICANT'S PROJECT MUST HAVE BEEN IDENTIFIED IN THE AGENCY'S INTENDED USE PLAN FOR THE YEAR IN WHICH THE APPLICANT IS APPLYING.

This statement is necessary to inform an applicant of the requirement that the applicant's project must include the Agency's Intended Use Plan for the year in which the applicant is planning to apply. It is reasonable as it is consistent with the Act and Minnesota Statutes 446A.07, Subd. 4 and Subd. 5.

THE AUTHORITY WILL ONLY PROVIDE FINANCIAL AID FOR THE ALLOWABLE COSTS PROVIDED IN PART 7380.0410, SUBPART 7.

This statement is necessary to inform the applicant that the Authority is limited to providing funds for only allowable project costs. It is reasonable as it is consistent with the Act and the allowable costs provided by this part.

- SUBP. 2. **LOAN TERMS AND CONDITIONS.** THE TERMS AND CONDITIONS FOR LOANS AND OTHER FORMS OF FINANCIAL ASSISTANCE PROVIDED BY THE AUTHORITY TO ELIGIBLE APPLICANTS FOR CERTIFIED PROJECTS SHALL BE AS PROVIDED BY THE ACT, MINNESOTA STATUTES CHAPTER 446A; THIS PART; AND AS PROVIDED BY THE AUTHORITY IN THE LOAN AGREEMENT FOR THE PROJECT FINANCING.
- SUBP. 3. **REPAYMENT.** THE REPAYMENT OF LOANS TO THE AUTHORITY BY THE RECIPIENT MUST BE SUFFICIENT TO FULLY AMORTIZE THE LOAN FOR A PERIOD OF NOT MORE THAN TWENTY YEARS AFTER PROJECT COMPLETION. IF TREATMENT WORKS HAVE

BEEN SEGMENT OR PHASED, THE REPAYMENT REQUIREMENTS OF THIS SUBPART AND THE PAYMENT REQUIREMENTS OF SUBPART 6 APPLY TO EACH PHASE OR SEGMENT OF THE PROJECT.

- SUBP. 4. **PROJECT COMPLETION.** THE REPAYMENT OF LOANS TO THE AUTHORITY BY THE RECIPIENTS SHALL BEGIN NO LATER THAN ONE YEAR AFTER PROJECT COMPLETION.
- SUBP. 5 **DEDICATED SOURCES OF REVENUE.** LOAN RECIPIENTS SHALL ESTABLISH, AND IDENTIFY IN THE APPLICATION, DEDICATED SOURCES OF REVENUE SUFFICIENT TO OPERATE AND MAINTAIN THE NEW FACILITY, AND FULLY AMORTIZE THE LOAN, FOR A TERM OF NOT MORE THEN 20 YEARS. THE AUTHORITY SHALL EXAMINE THE IDENTIFIED DEDICATED SOURCES OF REVENUE TO ENSURE THAT THEY ARE A SUFFICIENT AMOUNT, AND OF SUFFICIENT CERTAINTY TO FULLY REPAY THE LOAN.
- SUBP. 6 **PAYMENTS.** THE FIRST PRINCIPAL AND INTEREST PAYMENT SHALL BE DUE AND PAYABLE NOT LATER THAN ONE YEAR AFTER PROJECT COMPLETION, OR TWENTY-FOUR MONTHS FROM THE BEGINNING OF CONSTRUCTION, WHICHEVER IS EARLIER. SUBSEQUENT PRINCIPAL AND INTEREST PAYMENTS FROM THE LOAN RECIPIENT MUST BE MADE AT TIMES AGREED UPON BY THE LOAN RECIPIENT AND THE AUTHORITY IN THE LOAN AGREEMENT. IN GENERAL, SEMIANNUAL LOAN PAYMENTS WILL BE REQUIRED, UNLESS A DIFFERENT PAYMENT SCHEDULE IS AGREED UPON AND PROVIDED IN THE LOAN AGREEMENT. HOWEVER, IN NO CASE SHALL PAYMENTS BE LESS FREQUENT THAN AN ANNUAL PRINCIPAL AND INTEREST PAYMENT SUFFICIENT TO AMORTIZE THE DEBT WITHIN THE CONTRACTED PERIOD.

Subparts 1 through 6 are necessary as they inform the applicant of the minimum terms and conditions which the applicant has to meet in order for the Authority to be able to make the loan to the municipality. It is reasonable as it is consistent with the Act, and Minnesota Statutes 446A.07, Subd. 7.

INTEREST RATE DETERMINATIONS

7380.0440

- SUBP. 1 **IN GENERAL.** THE INTEREST RATE CHARGED BY THE AUTHORITY TO A LOAN RECIPIENT SHALL BE DETERMINED AS PROVIDED IN THIS PART.
- SUBP. 2 **SETTING OF INTEREST RATES.** THE INTEREST RATE CHARGED TO A LOAN RECIPIENT MUST BE DETERMINED BY THE AUTHORITY USING AS GUIDANCE THE QUARTERLY SET RATE IN EFFECT AT EITHER THE TIME OF THE MUNICIPALITY'S APPLICATION TO THE AUTHORITY; OR AT THE TIME OF THE SIGNING OF THE LOAN AGREEMENT BY THE AUTHORITY AND THE MUNICIPALITY, AS DETERMINED BY THE MUNICIPALITY. THE APPLICANT IS, HOWEVER, ELIGIBLE FOR THE CUMULATIVE INTEREST RATE ADJUSTMENTS PROVIDED IN THIS PART, OR THE APPLICANT MAY REQUEST IN ITS LOAN APPLICATION A SPECIFIED BASIS POINT REDUCTION FROM THE AVERAGE COUPON RATE OF BONDS TO BE SOLD BY THE AUTHORITY. IF THE LOAN APPLICANT APPLIES FOR THE SPECIFIED BASIS POINT REDUCTION, THE FOLLOWING REQUIREMENTS MUST BE MET:
- A. THE PAYMENT SCHEDULE AGREED TO WILL FOLLOW THE PAYMENT SCHEDULE OF THE BONDS SOLD BY THE AUTHORITY;

- B. ACCEPTA AGREEMENT ON FUND ACCOUNTABIL IS REACHED;
- C. THE MUNICIPALITY CAN DEMONSTRATE ITS CREDIT WORTHINESS, AND
- D. THE INTEGRITY OF THE FUND IS MAINTAINED.

THE AUTHORITY, SHALL ANNUALLY PROVIDE IN ITS APPLICATION MATERIAL THE SPECIFIC BASIS POINT REDUCTION IT WILL ALLOW UNDER THIS OPTION.

It is necessary to inform an applicant that they have an option of choosing an interest rate reduction in the amount of the cumulative total of all the categories which follow for which the applicant qualified or choosing the Authority's interest rate on bonds sold minus basis points specified in the application. It is reasonable as it deals with each applicant equally.

SUBP. 3 SUSPENSION OF LOANS AT THE QUARTERLY SET RATE. THE AUTHORITY MAY SUSPEND OFFERING OF LOANS AT THE QUARTERLY SET RATE IF IT DETERMINES THAT MARKET CONDITIONS IMPACTING THE MUNICIPAL BOND INDEX ARE UNSETTLED OR IMPAIR THE VIABILITY OF THE FUND. AT THE TIME OF THAT DETERMINATION, THE AUTHORITY MAY BY RESOLUTION ADOPT A REVISED QUARTERLY SET RATE, BASED UPON GENERALLY ACCEPTED PRACTICES OF INTEREST RATE FORECASTING, FOR A PERIOD OF TIME DETERMINED BY THE AUTHORITY. THE AUTHORITY MAY, BASED UPON MARKET CONDITIONS, EXTEND THE OFFERING OF LOANS AT THE REVISED QUARTERLY SET RATE AND CONTINUE TO DO SO UNTIL THE TIME THE AUTHORITY CONSIDERS IT PRUDENT TO AGAIN USE THE MUNICIPAL BOND INDEX AS GUIDANCE FOR THE QUARTERLY SET RATE.

It is necessary as it informs an applicant that the Authority shall have the right to suspending offering at the quarterly set rate should the Authority determine that market conditions, which impact the municipal bond index upon which the Authority's quarterly set is based and utilized for guidance, are unsettled. This is reasonable as the Authority has represented under contract to the U.S. Environmental Protection Agency that it will maintain the Fund in perpetuity by assuring the financial integrity of the Fund.

The Authority cannot knowingly make loans which will undermine the financial integrity of the Fund. It is reasonable because the Authority would have the ability to suspend the offering of loans should market conditions be such that the financial integrity of the Fund is placed at risk.

SUBP. 4 DEMOGRAPHIC CONSIDERATIONS.

A. A LOAN APPLICATION WILL BE CONSIDERED FOR AN INTEREST RATE REDUCTION BASED UPON THE POPULATION OF THE PROJECT SERVICE AREA, AND BE ELIGIBLE FOR A REDUCTION AS FOLLOWS:

- (1) APPLICANTS WITH A PROJECT SERVICE AREA POPULATION OF LESS THAN 150,000 AND LARGER THAN 100,000 ARE ELIGIBLE TO RECEIVE THE QUARTERLY SET RATE MINUS 25 BASIS POINTS, SUBJECT TO THE INTEREST RATE ADJUSTMENTS GIVEN IN THIS PART.
- (2) APPLICANTS WITH A PROJECT SERVICE AREA POPULATION OF 100,000 OR LESS AND LARGER THAN 25,000 ARE ELIGIBLE TO RECEIVE THE QUARTERLY SET RATE MINUS 50 BASIS POINTS, SUBJECT TO THE INTEREST RATE ADJUSTMENT GIVEN IN THIS PART.

- (3) APPLICANTS WITH A PROJECT SERVICE AREA POPULATION OF 25,000 OR LESS AND LARGER THAN 5,000 ARE ELIGIBLE TO RECEIVE THE QUARTERLY SET RATE MINUS 75 BASIS POINTS, SUBJECT TO THE INTEREST RATE ADJUSTMENTS GIVEN IN THIS PART.
 - (4) APPLICANTS WITH A PROJECT SERVICE AREA POPULATION OF 5,000 OR LESS AND LARGER THAN 2,500 ARE ELIGIBLE TO RECEIVE THE QUARTERLY SET RATE MINUS 100 BASIS POINTS, SUBJECT TO THE INTEREST RATE ADJUSTMENTS GIVEN IN THIS PART.
 - (5) APPLICANTS WITH A PROJECT SERVICE AREA POPULATION OF 2,500 OR LESS BUT LARGER THAN 1,000 ARE ELIGIBLE TO RECEIVE THE QUARTERLY SET RATE MINUS 125 BASIS POINTS, SUBJECT TO THE INTEREST RATE ADJUSTMENTS GIVEN IN THIS PART.
 - (6) APPLICANTS WITH A PROJECT SERVICE AREA POPULATION OF 1,000 OR LESS ARE ELIGIBLE TO RECEIVE THE QUARTERLY SET RATE MINUS 150 BASIS POINTS, SUBJECT TO THE INTEREST RATE ADJUSTMENTS GIVEN IN THIS PART.
- B. THE DATA USED TO DETERMINE THE POPULATION AND THE MEDIAN HOUSEHOLD INCOME OF THE PROJECT SERVICE AREA SHOULD BE THAT WHICH MOST ACCURATELY MEASURES THE POPULATION AND MEDIAN HOUSEHOLD INCOME OF THE AREA. THE AUTHORITY SHALL DETERMINE IF THE DATA SUBMITTED BY THE MUNICIPALITY IS AN APPROPRIATE AND ACCURATE MEASUREMENT OF THE POPULATION AND HOUSEHOLD INCOME OF THE PROJECT SERVICE AREA.
- C. THE METROPOLITAN AND NONMETROPOLITAN MEDIAN HOUSEHOLD INCOME LEVELS OF THE STATE MUST BE DETERMINED FROM INCOME DATA FROM THE MOST RECENT CENSUS OF THE UNITED STATES OR FROM DATA FROM THE STATE DEMOGRAPHER. THE DATA PROVIDED MUST BE APPLIED AS THE CRITERIA TO DETERMINE IF THE APPLICANTS' PROJECT SERVICE AREA HOUSEHOLD INCOME LEVEL IS AT, BELOW, OR ABOVE THE MEDIAN HOUSEHOLD LEVEL FOR THE METROPOLITAN OR NONMETROPOLITAN AREA AS APPLICABLE.
- D. IF THERE IS REASON TO BELIEVE THAT THE UNITED STATES CENSUS DATA OR THE DATA FROM THE STATE DEMOGRAPHER IS NOT A CURRENTLY ACCURATE REPRESENTATION OF THE MEDIAN HOUSEHOLD INCOME OR POPULATION WITHIN THE PROJECT SERVICE AREA, THE APPLICANT MAY DOCUMENT THE REASONS WHY THE DATA IS NOT AN ACCURATE REPRESENTATION, AND OBTAIN ADDITIONAL INFORMATION REGARDING MEDIAN HOUSEHOLD INCOME OR POPULATION FOR THE PROJECT SERVICE AREA. THE INFORMATION MUST CONSIST OF RELIABLE DATA FROM LOCAL, REGIONAL, STATE OR FEDERAL SOURCES OR FROM A SURVEY CONDUCTED BY A RELIABLE IMPARTIAL SOURCE.

It is necessary to inform applicants in Subpart 4, A through D with the first of interest rate adjustments the Authority may consider in offering a loan to an applicant. A through C introduces and explains that a population size of the project service area will be the first consideration. It is reasonable as the Minnesota Public Facilities Authority and its programs are part of the Rural Development Act, and as such the Authority's legislative mandate is to respond to the limited financial capabilities of the smaller size communities in the State. The population size of the project service area relates to a significant measure to financial capacity. Accordingly, the Authority

in determining the interest rate to be offered an applicant will offer the smaller municipalities a reduced rate based on population size, and therefore capacity to finance public facility projects.

Subpart 4, Item D is necessary as it provides a procedure for applicants to utilize should there be substantive reason to believe that the demographic information available from the U.S. Census Bureau on the State is not representative of the median house income level or population. It is reasonable to offer this option to an applicant due to the significant changes which may occur in municipalities due to a number of socio-economic reasons within a short period of time.

- SUBP. 5 INTEREST RATE ADJUSTMENT. ANY APPLICANT IS ELIGIBLE TO RECEIVE CONSIDERATION FOR INTEREST RATE ADJUSTMENTS TO THE INTEREST RATE TO BE CHARGED BY THE AUTHORITY AS PROVIDED IN THIS PART.**
- A. THE MEDIAN HOUSEHOLD INCOME IS THE INCOME LEVEL FOR THE PROJECT SERVICE AREA TO BE SERVICED BY THE FACILITY BEING FINANCED BY THE AUTHORITY. IF THE MEDIAN HOUSEHOLD INCOME LEVEL FOR THE AREA IS BELOW THE MEDIAN HOUSEHOLD INCOME LEVEL FOR A METROPOLITAN OR NONMETROPOLITAN AREA AS APPLICABLE, THE APPLICANT SHALL BE ELIGIBLE FOR A 50 BASIS POINT REDUCTION IN THE RATE.
 - B. IF THE PERCENTAGE OF POVERTY LEVEL HOUSEHOLDS IN THE PROJECT SERVICE AREA IS AT OR ABOVE THE NATIONAL AVERAGE, THE APPLICANT IS ELIGIBLE FOR 100 BASIS POINTS REDUCTION IN THE INTEREST RATE CHARGED BY THE AUTHORITY.
 - C. IF THE CURRENT ANNUAL SEWER SERVICE CHARGE OF THE PROJECT SERVICE AREA, COUPLED WITH THE FINANCING, OPERATION, MAINTENANCE AND REPLACEMENT COSTS OF THE NEW FACILITY RESULTS IN AN ANNUAL SEWER SERVICE CHARGE IN EXCESS OF ONE PERCENT OF THE MEDIAN HOUSEHOLD INCOME LEVEL OF THE PROJECT SERVICE AREA, THE MUNICIPALITY IS ELIGIBLE FOR A 100 BASIS POINTS REDUCTION IN THE INTEREST RATE.

Subparts 5A, B and C are necessary as they provide a measure of capacity to pay, i.e. the household income of the sewer service area and the percent of the increased sewer service charge relative to the project against household income. These criteria are reasonable as they are used by other Federal and State Agencies as a capacity to pay.

- Subp. 6 INTEREST-FREE LOANS. THE AUTHORITY MAY OFFER INTEREST-FREE LOANS AS PROVIDED IN THIS PART TO MUNICIPALITIES DEMONSTRATING IN THEIR APPLICATION THAT THEY ARE FINANCIALLY UNABLE TO PAY INTEREST CHARGE ON THE LOAN. THE AUTHORITY SHALL NOT OFFER INTEREST-FREE LOANS IF THE OFFERING OF AN INTEREST-FREE LOAN RESULTS IN THE COMBINED RATE OF INTEREST ON THE AUTHORITY'S PORTFOLIO TO YIELD LESS THAN THE RATE OF INFLATION AS DETERMINED BY THE CONSUMER PRICE INDEX.**

INTEREST-FREE LOANS FOR ANY APPLICANT SHALL BE LIMITED TO \$500,000, OR THE ELIGIBLE COST OF THE PROJECT, WHICHEVER IS LESS. THE AUTHORITY SHALL NOT PROVIDE INTEREST-FREE LOANS, IN TOTAL, EXCEEDING UP TO TEN PERCENT OF THE TOTAL CAPITALIZATION GRANT FUNDS SCHEDULED TO BE RECEIVED BY THE AUTHORITY.

TO BE ELIGIBLE FOR CONSIDERATION FOR AN INTEREST-FREE LOAN, AN APPLICANT MUST MEET EACH OF THE FOLLOWING CONDITIONS:

- A. THE POPULATION OF THE PROJECT SERVICE AREA HAS DECLINED OVER THE PAST TEN YEARS;
- B. THE PERCENT OF PEOPLE IN POVERTY IN THE PROJECT SERVICE AREA OF THE PROJECT IS AT OR EXCEEDS THE POVERTY LEVEL; AND
- C. THE CURRENT ANNUAL SEWER SERVICE CHARGE OF THE PROJECT SERVICE AREA, COUPLED WITH THE FINANCING, OPERATION, MAINTENANCE, AND REPLACEMENT COSTS OF THE NEW FACILITY RESULTS IN AN ANNUAL SEWER SERVICE CHARGE IN EXCESS OF ONE AND ONE-HALF PERCENT OF THE MEDIAN HOUSEHOLD INCOME LEVEL OF THE PROJECT SERVICE AREA.

It is necessary to inform applicants how they may qualify for an interest-free loan based on the requirements given in Subpart 4. It is reasonable as it is consistent with the Act and Minnesota Statutes 446A.07, Subd. 7(a).

It is necessary to inform an applicant that there may be circumstances which may prevent the Authority offering an interest-free loan to an applicant which qualifies. It is reasonable to not offer interest-free loan to an eligible applicant should the circumstances be as provided in the part as it is consistent with the contractual agreement entered into by the Authority with the U.S. Environment Protection Agency which requires the Authority to maintain the financial integrity of the fund.

It is necessary to establish a loan limit on the amount of interest-free loan any applicant may receive. It is reasonable as the Authority is required to maintain the financial integrity of the fund and therefore must limit the amount an individual applicant may receive in order to insure interest-free funds are available to all applicants who qualify.

It is necessary to inform applicants in Subparts 4A through 4C of the requirements to receive consideration by the Authority for an interest-free loan. It is reasonable to require applicants to demonstrate their need for an interest-free loan.

OTHER FINANCIAL ASSISTANCE

7380.0450

SUBP. 1 IN ADDITION TO LOANS AS PROVIDED IN PARTS 7380.0430 TO 7380.0440, THE AUTHORITY MAY USE ANY FORMS OF FINANCIAL AIDS PROVIDED IN UNITED STATES CODE, TITLE 33, SECTION 1383(d). THE USE OF A SPECIFIC FINANCING TOOLS WILL BE DETERMINED BY THE AUTHORITY BASED ON EXISTING FINANCIAL MARKET CONDITIONS AT THE TIME OF THE FINANCING OF THE PROJECT TAKES PLACE.

SUBP. 2 THE REVOLVING LOAN FUND AUTHORIZED BY THE ACT MAY BE USED:

- A. TO BUY OR FINANCE THE DEBT OBLIGATION OF GOVERNMENTAL UNITS FOR TREATMENT WORKS INCURRED AFTER MARCH 7, 1985, AT OR BELOW MARKET RATE;
- B. TO GUARANTEE OR PURCHASE INSURANCE FOR LOCAL OBLIGATIONS TO IMPROVE CREDIT MARKET ACCESS OR REDUCE INTEREST RATES;
- C. TO PROVIDE A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON REVENUE OR GENERAL OBLIGATION BONDS ISSUED BY THE AUTHORITY IF BOND PROCEEDS ARE DEPOSITED IN THE FUND;
- D. TO PROVIDE LOAN GUARANTEES FOR SIMILAR REVOLVING FUNDS ESTABLISHED BY A GOVERNMENTAL UNIT OTHER THAN STATE AGENCIES.

It is necessary to inform an applicant that other types of financial assistance are available from the Authority in addition to direct loans. It is reasonable as it is consistent with the Act and Minnesota Statutes 446A.07, Subd. 8.

FEES

7380.0460

- SUBP. 1 IN GENERAL. IF THE AUTHORITY CHARGES A LOAN RECIPIENT A LOAN ORIGINATION FEE, THE FEE MUST BE BASED ON A SCHEDULE ESTABLISHED BY THE AUTHORITY AND MUST NOT EXCEED ONE AND ONE-HALF PERCENT OF FUNDS BORROWED FROM THE AUTHORITY. THE FEES, IF ANY, WILL BE CHARGED TO ALL LOAN RECIPIENTS AND MUST BE AS PROVIDED IN THE LOAN APPLICATION FORM. THESE FEES MAY BE INCLUDED AS AN ELIGIBLE PROJECT ACTIVITY OR CATEGORY IN THE MUNICIPALITY'S APPLICATION TO THE AUTHORITY, AND SHALL BE DUE AND PAYABLE AS PROVIDED IN THE LOAN AGREEMENT.

It is necessary to inform applicants that the Authority may charge a fee in an amount not to exceed one and one-half percent of the amount borrowed from the Authority. It is reasonable as it is consistent with Minnesota Statutes 446A.04, Subd. 5.

RELEASE OF FUNDS

7380.0470

- SUBP. 1 IN GENERAL. SUBJECT TO THE AVAILABILITY OF FUNDS, PAYMENTS TO THE GOVERNMENTAL UNIT FOR AN APPROVED PROJECT WILL BE MADE IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAW GOVERNING PAYMENTS, BUT PAYMENTS WILL NOT BE MADE UNTIL THE AUTHORITY HAS DETERMINED THE TOTAL ESTIMATED COST OF THE PROJECT, AND ASCERTAINED THAT THE TOTAL FINANCING OF THE PROJECT IS ASSURED BY THE FOLLOWING:
- A. A LOAN AUTHORIZED BY STATE LAW OR THE APPROPRIATION PROCEEDS OF BONDS OR OTHER MONEY OF THE MUNICIPALITY TO A FUND FOR CONSTRUCTION OF A PROJECT; AND
 - B. AN IRREVOCABLE UNDERTAKING, BY RESOLUTION BY THE GOVERNING BODY OF THE GOVERNING UNIT TO USE LOAN PROCEEDS EXCLUSIVELY FOR THE

PROJECT AND TO PAY ANY ADDITIONAL AMOUNT BY WHICH THE COST OF THE PROJECT EXCEEDS THE FINAL ESTIMATE BY THE APPROPRIATION TO THE CONSTRUCTION FUND OF ADDITIONAL MONEY OR PROCEEDS OF ADDITIONAL BONDS TO BE ISSUED BY THE GOVERNMENTAL UNIT.

It is necessary to inform applicants 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 Minnesota Statutes 446A.07, Subd. 9.

SUBP. 2 ADVERSE CHANGE. THE AUTHORITY SHALL NOT RELEASE FUNDS TO A MUNICIPALITY FOR AN APPROVED PROJECT UNTIL THE AUTHORITY HAS DETERMINED THAT THERE HAVE BEEN NO ADVERSE CHANGES IN THE FINANCIAL CAPACITY OF THE MUNICIPALITY SINCE THE DAY OF THE COMPLETION OF THE APPLICATION.

THE AUTHORITY RESERVES THE RIGHT TO SUSPEND OR TERMINATE FUNDING TO THE MUNICIPALITY OR CALL FOR REPAYMENT OF THE LOAN IN FULL, SHOULD THE AUTHORITY DETERMINE THAT THERE HAS BEEN AN ADVERSE CHANGE.

It is necessary to inform an applicant that the applicants' representations made in the application, as approved by the Authority, must remain in effect until the loan is fully repaid, if not, the Authority has the right to suspend, terminate or call the loan. It is reasonable as it is standard lending practice.

SUBP. 3 CONFORMANCE WITH PLANS AND REPORTING REQUIREMENTS. THE AUTHORITY SHALL WITHHOLD, SUSPEND OR TERMINATE EITHER TOTAL OR PARTIAL PAYMENTS IF THE AUTHORITY DETERMINES THAT A PROJECT DOES NOT SUBSTANTIALLY CONFORM TO APPROVED PLANS AND SPECIFICATIONS; OR THERE HAS BEEN SUBSTANTIAL NONCOMPLIANCE WITH REPORTING REQUIREMENTS.

THE EXECUTIVE DIRECTOR SHALL GIVE A MUNICIPALITY WRITTEN NOTICE OF THE DEFICIENCIES THE AUTHORITY HAS DETERMINED EXIST, AND THE TIME LIMIT IN WHICH THE MUNICIPALITY MUST DEMONSTRATE TO THE AUTHORITY'S SATISFACTION THAT THE CONDITION HAS BEEN OR WILL BE CORRECTED. THE TIME FOR DEMONSTRATION MUST NOT EXCEED 90 DAYS.

It is necessary to inform loan recipients that the Authority may withhold, suspend, or terminate payments if the Authority determines that the project is not being constructed to approved plans and specifications, or the loan recipient has not provided the required reports as agreed upon. It is reasonable as the Authority is required by the Act to only fund those projects which are constructed in compliance with the Act and approved plans and specifications.

The second paragraph of subpart 3 is necessary as it informs the loan recipient of the method the Authority will utilize to inform a loan recipient that the Authority has determined that the loan recipient is in non-compliance, and also inform the loan recipient of the maximum allowable time to correct the deficiency. It is reasonable as it informs and provides for a loan recipient a period of time to correct the deficiency.

REPORTS AND AUDITS

7380.0480

SUBP. 1 IN GENERAL. DURING THE TERM OF THE LOAN, 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 for the municipality to provide to the Authority an accounting of project costs and expenditure of funds in order that the Authority may provide for an accounting of its lending activity. It is reasonable as it is generally accepted accounting practice.

SUBP. 2 AUDITS. FINANCIAL ASSISTANCE RECIPIENTS MUST ARRANGE FOR AND PAY FOR INDEPENDENT AUDITS, ACCEPTABLE TO THE AUTHORITY AND PREPARED IN COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET, CIRCULAR A-128, PUBLISHED IN THE FEDERAL REGISTER, VOLUME 50, NUMBER 188, PAGE 39083, ON SEPTEMBER 27, 1985, AND IN COMPLIANCE WITH THE SINGLE AUDIT ACT OF 1984, UNITED STATES CODE, TITLE 31, SECTIONS 7501-7507. COSTS INCURRED IN PREPARATION OF THE AUDIT ARE AN ELIGIBLE ACTIVITY OR CATEGORY UNDER PART 7380.0410, SUBPART 7.

It is necessary to inform potential applicants that there are specific audit requirements involved in utilizing the loan program and that there is a cost that will be incurred by the applicant. It is also necessary to inform applicants that the cost is an allowable project cost and can be included in the amount of funds sought from the Authority. It is reasonable as the audit is required by the Act.

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