

CHAPTER 4160
DEPARTMENT OF ENERGY, PLANNING AND
DEVELOPMENT
ENERGY DIVISION
COMMUNITY ENERGY PLANNING GRANTS

NOTE: Under Laws of Minnesota 1983, chapter 289, section 40, this chapter of Minnesota Rules shall be administered by the Department of Energy and Economic Development. Thus, references to the Department of Energy, Planning and Development, or to its divisions, should be read as intending the Department of Energy and Economic Development.

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4160.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4160.0100 to 4160.4100 shall have the following meanings.

Subp. 2. **Agency.** "Agency" means the Energy Division of the Department of Energy, Planning and Development.

Subp. 3. **Clearinghouse.** "Clearinghouse" means that governmental unit that 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 Minnesota Statutes, section 473.171, subdivision 2.

The review authority for the remainder of the state is the appropriate regional development commission under Minnesota Statutes, section 462.391, subdivision 3.

Subp. 4. **In-kind.** "In-kind" means:

A. salary and cost of fringe benefits of the grant recipient staff working on activities funded by the grant;

B. increases in overhead resulting from carrying out activities funded by the grant.

Subp. 5. **Local unit of government.** "Local unit of government," for purposes of applying for grants under this program, means a city, a county, or a combination of such units. "Local unit of government" also includes those organizations that the local unit of government recognizes as capable of, and with which it may enter into a contract for the purpose of, performing the authorized energy-related planning and implementation activities.

Statutory Authority: *MS s 116J.14*

4160.0200 AUTHORITY, PURPOSE, AND SPENDING LIMITATION.

Subpart 1. **Authority.** Parts 4160.0100 to 4160.4100, implementing the community energy planning grants program, are promulgated by the agency pursuant to Minnesota Statutes, section 116H.089.

Subp. 2. **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.

Subp. 3. **Limitation.** No more than 45 percent of the amount appropriated for community energy planning grants shall be distributed to counties and cities within the seven-county metropolitan area defined in Minnesota Statutes, section 473.121, subdivision 2.

Statutory Authority: *MS s 116J.14*

PLANNING GRANTS AND IMPLEMENTATION GRANTS**4160.1100 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.

Statutory Authority: *MS s 116J.14*

4160.1200 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 and budgeting, in municipal operating budgets, and in economic development plans.

Statutory Authority: *MS s 116J.14*

4160.1300 ACTIVITIES AND EXPENDITURES ELIGIBLE FOR PLANNING GRANTS.

The following activities or expenditures are eligible for planning grants:

- A. salaries or benefits for planning staff personnel;
- B. data collection or analysis, or both;
- C. development of local energy documents, including plans;
- D. modification of capital improvement programs for energy-related projects;
- E. development of energy-conscious fleet management systems, transportation plans, and intergovernmental plans;
- F. development of budgetary or fiscal systems that significantly address energy costs;
- G. development of zoning, subdivision, and other codes, ordinances, regulations, supplements, or amendments relating to energy; and
- H. any other activities that carry out the purpose of the program as expressed in part 4160.0200, subpart 2.

Statutory Authority: *MS s 116J.14*

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4160.1400 ACTIVITIES AND EXPENDITURES INELIGIBLE FOR PLANNING GRANTS.

The following activities or expenditures are ineligible for planning grants:

- A. non-energy-related issues;
- B. retroactive payment of revenue to local units of government for energy activities previously undertaken; or
- C. out-of-state travel, unless specifically approved in a contract between the grantee and the agency.

Statutory Authority: *MS s 116J.14*

4160.1500 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 reviewed by the agency.

Statutory Authority: *MS s 116J.14*

4160.1600 ACTIVITIES AND EXPENDITURES ELIGIBLE FOR IMPLEMENTATION GRANTS.

The following activities or expenditures are eligible for implementation grants:

- A. detailed drawings, architectural drawings, site designs, and engineering specifications;
- B. equipment purchases directly affecting energy recovery, conservation, or production;
- C. construction of energy production or energy recovery systems; and
- D. any other activities which carry out the purpose of the program as expressed in part 4160.0200, subpart 2.

Statutory Authority: *MS s 116J.14*

4160.1700 ACTIVITIES AND EXPENDITURES INELIGIBLE FOR IMPLEMENTATION GRANTS.

The following activities or expenditures are ineligible for implementation grants:

- A. non-energy-related projects;
- B. property acquisition (real property); or
- C. personnel for continued operation of energy conservation, production, or recovery facilities beyond the first year of an implementation grant.

Statutory Authority: *MS s 116J.14*

APPLICATIONS AND EVALUATION

4160.2100 GENERAL APPLICATION PROCEDURE.

Subpart 1. **Three-stage approval process.** The approval process for planning grants and implementation grants has three stages: preliminary application, final application, and contract execution.

Subp. 2. **Joint applications.** Joint applications may be submitted by two or more local units of government that are encountering energy-related problems for which it appears joint consideration of problems is possible, preferable, and appropriate. In addition to complying with part 4160.2200 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.

Subp. 3. **Clearinghouse review.** 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 subpart 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.

Subp. 4. **Agency review.** The agency shall have 30 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.

Statutory Authority: *MS s 116J.14*

4160.2200 PRELIMINARY APPLICATION.

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 the following: name of community, 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.

Preliminary applications shall be submitted semiannually 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 parts become effective.

Statutory Authority: *MS s 116J.14*

4160.2300 EVALUATION OF PRELIMINARY APPLICATIONS FOR PLANNING GRANTS.

Subpart 1. **Two-step process.** Preliminary applications that satisfy all eligibility requirements shall be evaluated in a two-step process: general criteria and planning function criteria.

Subp. 2. **General criteria.** Planning grant applications that address the greatest number of the following considerations will be given priority over planning grant applications that 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 that 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; and

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E. local-unit-of-government programs that include the provision of local support to address energy problems and to undertake energy planning for the local unit of government.

Subp. 3. **Planning function evaluation.** Applications achieving similar priority ranking based on the general criteria stated in subpart 2 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, joint powers agreements, property covenants, and easements;

C. use of renewable energy resources such as solar, wind, biomass, and hydropower;

D. cost-effectiveness;

E. public participation efforts, such as neighborhood energy committees and governmental energy committees;

F. private sector participation such as van pools, staff, materials, or financial contributions; and

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.

Statutory Authority: *MS s 116J.14*

4160.2400 EVALUATION OF PRELIMINARY APPLICATIONS FOR IMPLEMENTATION GRANTS.

Subpart 1. **Evaluation of preliminary applications.** Preliminary applications that satisfy all eligibility requirements shall be evaluated in a two-step process: general criteria and implementation function criteria.

Subp. 2. **General criteria.** Implementation grant applications which address the greatest number of the following considerations will be given priority over implementation grant applications that 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 that 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; and

E. local-unit-of-government programs that include the provision of local support to address energy problems and to undertake energy production or conservation in the local unit of government.

Subp. 3. **Implementation grant evaluation.** Applications achieving similar priority ranking based on the general criteria stated in subpart 2 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 degree to which the project meets scientifically accepted laws; or

(2) the 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.

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

(1) the level of education or experience in conducting similar project implementation; or

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

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

(1) monetary or fuel 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 federal requirements (environmental, zoning, and health).

Statutory Authority: *MS s 116J.14*

4160.2500 FINAL APPLICATION.

Subpart 1. **Submission.** A final application may be submitted only by applicants that 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 subpart 2. Final applications will be reviewed for completeness and compliance with the rules of this program. Incomplete applications, or applications that 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 parts 4160.3100 to 4160.3800.

Subp. 2. **Format of final applications.** The final application shall contain at least the following elements:

A. A work program and schedule that contain the following:

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

(2) A description of the activities that the grant makes possible. The description of activities should identify the expected results and 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.

(3) 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.

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

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

D. The application shall be submitted to the agency only if accompanied by a resolution passed at an official meeting of the governing body

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and signed by the authorized person.

Statutory Authority: *MS s 116J.14*

GRANT CONTRACT

4160.3100 GRANT CONTRACT.

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.

Statutory Authority: *MS s 116J.14*

4160.3200 FUNDING PERIOD.

Grants will be funded for the following periods: Planning grants will be approved for a period of up to one year. 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.

Statutory Authority: *MS s 116J.14*

4160.3300 GRANT RATIOS.

Planning grants shall not exceed 75 percent of the total first year proposed planning budget. The agency may award an implementation grant up to 50 percent of the project's implementation cost, but not to exceed \$50,000. No single grant shall exceed \$50,000.

Statutory Authority: *MS s 116J.14*

4160.3400 DISBURSEMENT SCHEDULE.

Grant funds will be disbursed to the grantee according to invoices submitted on the following schedule: 50 percent during the first month of the grant contract funding period; 40 percent upon completion of half of the agreed-upon work program; and ten percent upon completion of a satisfactory evaluation according to part 4160.4100.

Statutory Authority: *MS s 116J.14*

4160.3500 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.

Statutory Authority: *MS s 116J.14*

4160.3600 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 receipt and expenditure of grant moneys.

Statutory Authority: *MS s 116J.14*

4160.3700 MONITORING GRANT RESULTS.

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

A. document on an annual basis the results of the grant program for a period of up to three 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

B. participate in at least one agency workshop at which the grantee will present the results of the grant program.

Statutory Authority: *MS s 116J.14*

4160.3800 CONTRACT DEVIATIONS.

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.

Unless agreed upon by the grantee and the agency, it will not be permissible for 100 percent of all energy-related activities to be contracted out to consultants.

Statutory Authority: *MS s 116J.14*

4160.4100 FINAL EVALUATION.

The agency shall conduct a final evaluation within 60 days of the submission by the grantee to the agency of the final community energy plan and all the required reports and financial documents. The evaluation shall assess whether the agreed-upon work program was completed, and whether the governing body has formally reviewed the completed energy plan.

Upon completion of a satisfactory evaluation the remaining ten percent 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 review before the agency.

Statutory Authority: *MS s 116J.14*