

**CHAPTER 7380**  
**DEPARTMENT OF TRADE AND ECONOMIC**  
**DEVELOPMENT**  
**MINNESOTA PUBLIC FACILITIES AUTHORITY**  
**LOAN PROGRAMS**

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**7380.0245 PURPOSE.**

The drinking water revolving fund provides loans and other forms of financial assistance to eligible public drinking water suppliers for the planning, design, and construction of facilities to ensure safe and adequate drinking water. Under the provisions of the federal Safe Drinking Water Act and Minnesota Statutes, section 446A.081, the Minnesota Public Facilities Authority receives capitalization grants from the United States Environmental Protection Agency and manages the fund, including making loans to eligible borrowers and receiving loan repayments. The authority also raises funds for loans through the sale of revenue bonds. Parts 7380.0245 to 7380.0297 provide for the authority's administration of its responsibilities under Minnesota Statutes, section 446A.081. The Minnesota Department of Health also has administrative responsibilities under Minnesota Statutes, section 446A.081, including determining project priorities and approving projects prior to the award of financial assistance by the authority. Parts 4720.9000 to 4720.9080 provide for the administration of the Minnesota Department of Health's responsibilities.

**Statutory Authority:** *MS s 446A.081*

**History:** *22 SR 397*

**7380.0250 DEFINITIONS.**

Subpart 1. **Scope.** The terms defined in this part, the federal Safe Drinking Water Act, and Minnesota Statutes, section 446A.081, apply to parts 7380.0245 to 7380.0297.

Subp 2 **Act.** "Act" means the Public Health Service Act, United States Code, title 42, sections 300f et seq., Public Law Number 104-184, title XIV, section 1452, Part E.

Subp 3 **Applicant.** "Applicant" means any county, city, town, township, regional entity, or other governmental entity, or such other entity as provided in part 4720.9010, which is responsible for providing public drinking water, and which intends to apply or has applied to the authority for financial assistance from the fund. If an entity responsible for providing public drinking water is not empowered to issue a general obligation bond to the authority and another governmental entity agrees to issue a general obligation note on behalf of the drinking water supplier, applicant refers to both entities. All data used in these circumstances to determine the interest rate of a loan under part 7380.0270 shall be based on the entity responsible for providing public drinking water.

Subp. 4. **Application.** "Application" means the documents submitted to the executive director of the authority by the applicant which contains information and data in support of the applicant's loan request to the authority. The application includes the completed application forms provided by the authority; a municipal profile and current annual budget, or financial forecasts, as applicable; and financial audits for the last three years. Application materi-

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als submitted by a private provider of a public drinking water system may be private data as provided in part 7380 0260.

Subp 5 **Authority.** "Authority" means the Minnesota Public Facilities Authority created in Minnesota Statutes, chapter 446A

Subp 6 **Basis point.** "Basis point" means the shorthand reference to 1/100 (0 01) of one percent

Subp 7 **Borrower.** "Borrower" means any county, home rule charter or statutory city, town, township, regional entity, or other governmental entity, or other entity as provided in part 4720 9010, which is responsible for providing public drinking water, and which will enter into or has entered into a loan agreement with the authority If an entity responsible for providing public drinking water is not empowered to issue a general obligation bond to the authority and another governmental entity agrees to issue a general obligation note on behalf of the drinking water supplier, borrower refers to both entities All data used in these circumstances to determine the interest rate of a loan under part 7380.0270 shall be based on the entity responsible for providing public drinking water.

Subp 8 **CD.** "CD" means certificate of deposit

Subp 9 **Debt service account.** "Debt service account" means a separate booking account established and maintained in a borrower's official financial records to account for the accumulation of resources for, and the payment of, the general obligation bond issued by a borrower and purchased by the authority to effect the loan transaction for the financing of the borrower's drinking water supply project.

Subp 10 **Dedicated sources of revenue.** "Dedicated sources of revenue" means one or more dedicated sources of revenue pledged by a borrower issuing a general obligation or revenue bond to the authority to service debt incurred from the fund as required by the act and Minnesota Statutes, section 446A 081, subdivision 8, paragraph (d).

Subp. 11 **Department.** "Department" means the Department of Health

Subp 12 **Eligible costs.** "Eligible costs" means the project costs that may be financed by the authority, pursuant to the act and parts 7380.0245 to 7380 0297, provided that the project costs are reasonable and necessary, and, subject to applicable law, provisions of the capitalization grant, and the authority's basic bond resolution and series bond resolution, may include the following

- A acquisition costs of land, as permitted under the act,
- B. site preparation,
- C. construction costs,
- D engineering costs,
- E cost of equipment and machinery,
- F. bond issuance costs;
- G underwriting, financial advisor, or placement fees,
- H trustee or paying agent fees;
- I fees of guarantor, insurer, or financial institution, which provide letters of credit, surety bonds, or equivalent security,
- J authority fees, including application and guaranty of the authority;
- K certain contingency costs up to the amount permitted by the act;
- L interest costs during construction; and
- M. legal fees, including those of the authority

Subp 13 **Emergency project.** "Emergency project" means a project so designated by the commissioner of the department as provided in part 4720 9055

Subp. 14. **Executive director.** "Executive director" means the executive director of the authority

Subp. 15. **Financial capability.**

A. "Financial capability" for a municipal borrower means the capability of the municipality to retire debt incurred from the fund, as measured by its current fiscal and socio-economic data as determined through such measures as population trends, median household income, per capita debt load, user fee impact, composition of municipal long-term debt, debt

service coverage ratio, planned capital improvements, and liquidity; as well as a review of the municipality's last three years' annual audits

B "Financial capability" for a private borrower means the capability of the private borrower to retire debt incurred from the fund, as determined by such measures as income and earnings forecasts, financial forecasts, credit reports, net worth calculations, and other related documents that demonstrate that the borrower has sufficient revenues to repay the loan.

**Subp. 16 Financial institution.** "Financial institution" means an investment or banking institution, a savings and loan, an insurance company, an investment company, or a public entity authorized to make loans

**Subp. 17 Fund.** "Fund" means the drinking water revolving fund as provided in Minnesota Statutes, section 446A.081, subdivision 2

**Subp. 18. General obligation bond or general obligation note.** "General obligation bond" or "general obligation note" means bonds or notes which are secured by the full faith and credit of a borrower as provided in Minnesota Statutes, chapters 116A and 475

**Subp. 19 Interest.** "Interest" means the interest charged on the loan principal plus any servicing fees as provided in Minnesota Statutes, section 446A.04, subdivision 5

**Subp. 20 Linked deposit loan.** "Linked deposit loan" means a loan made under contract by the authority with a financial institution authorized to issue CDs, where the authority invests funds in a CD up to an amount equal to the amount of the loan. The CD is intended to be a source of funds for the loan and may not be pledged as security on the loan

**Subp. 21 Loan agreement.** "Loan agreement" means the financing agreement between the borrower, the financial institution, if utilized for a project, and the authority, which along with the general obligation bond, revenue bond, or promissory note and security agreement, as applicable, provides the terms and conditions of the loan

**Subp. 22. Municipal bond index.** "Municipal bond index" means the index compiled by Merrill Lynch and Co which is represented as being 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 weekly in the Wall Street Journal. If this index is discontinued, the authority shall select a similar alternative index

**Subp. 23 Official statement.** "Official statement" means the legal document prepared by the authority which summarizes all the salient features of the underlying documents and agreements which support the bond offerings of the authority. It is considered a disclosure document which presents information that is material to the offering, and contains what a reasonable investor would need to know in making a decision about investing in the issue. The document sets forth the pertinent facts concerning the issuer, the issuer's financial condition, the security pledged for the bonds being offered, the projected use of the proceeds of the bond sale, and, in the case of the authority, pertinent facts about the authority's borrowers

**Subp. 24 Participation loan.** "Participation loan" means a loan made under contract with a financial institution in which the authority purchases up to a 50 percent share of a financial institution's loan to an eligible borrower

**Subp. 25 Poverty level.** "Poverty level" means the number of persons in poverty within a municipality, expressed as a percentage, identified as the poverty level of a municipality by the United State 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 municipality

**Subp. 26. Project completion.** "Project completion" means the date on which the operation of the project's major components will be initiated or will be capable of being initiated

**Subp. 27 Quarterly set rate.** "Quarterly set rate" means the maximum rate of interest in a given quarter on a 20-year loan to a borrower providing a general obligation or revenue bond to the authority, using as guidance the average of the municipal bond index for the four weeks prior to the beginning of the quarter minus 50 basis points. For loans less than 20 years, an additional five basis points shall be deducted for each year less than 20 years

Subp 28 **Revenue bond.** "Revenue bond" means a bond payable from specified sources of revenue and to which the full faith and credit of the issuing entity is not pledged, issued by a city of the first class which cannot issue a general obligation bond or note to finance its water supply system without first obtaining the approval of the electors at a referendum

Subp 29 **Significant water user.** "Significant water user" means a nonresidential user of an applicant's water supply system whose current water needs or projected water needs cause the need for construction of the drinking water project, and whose water intake after the project is completed will be greater than or equal to 50 percent of the total gallons annually supplied by the water supply system

Subp 30 **True interest cost.** "True interest cost" means the weighted rate of interest on an authority series bond issue as determined at the time of bid opening and award of the issue to an underwriter

Subp 31 **Water service area.** "Water service area" means the area serviced by a borrower's drinking water project

Subp 32 **Water service charge.** "Water service charge" means the total charges levied upon the residential and nonresidential users of a borrower's water supply system for the purposes of operating and maintaining the system and paying debt service costs. Water service charges may include tax assessments, special assessments, user charges, user fees, or other charges for the use of the borrower's water supply system identified by any other name

Subp 33 **Water supply system.** "Water supply system" means the collective term to denote all of the property involved in the operation of a borrower's water system, including, but not limited to, the source of the water supply, treatment facilities, water storage, water lines, valves, meters, and general property

**Statutory Authority:** *MS s 446A.081*

**History:** 22 SR 397

### 7380.0255 INTENDED USE PLAN.

Subpart 1 **Adoption of intended use plan.** The authority shall, after providing for public notice and comment, annually adopt an intended use plan which describes the intended uses of the amounts in the fund in a particular fiscal year. The intended use plan shall identify

A the projects meeting the eligibility requirements in subpart 2 which are expected to be funded in the fiscal year,

B the other eligible activities to be funded as provided in the act, and the amounts to be set aside for each, and

C the amount to be reserved for emergency projects

Subp 2 **Eligibility.** To be eligible for placement on the intended use plan

A the project must be listed on the project priority list maintained by the department as provided in part 4720.9015, and

B the applicant must submit a written request to the authority for placement on the intended use plan that includes

(1) a brief description of the project for which financial assistance is sought,

(2) an updated project cost estimate and the requested loan amount,

(3) a project schedule indicating that the project will proceed in the fiscal year for which the intended use plan is being prepared, and

(4) an estimate of the monthly drawdown of the loan proceeds

Subp 3 **Priority order.** Projects shall be listed on the intended use plan in order of their priority on the project priority list maintained by the department as provided in part 4720.9015. If the total requested loan amount from applicants meeting the eligibility requirements in subpart 2 exceeds the amount expected to be available for loans, all eligible projects shall be listed on the intended use plan and the intended use plan shall identify the projects that are expected to be funded, beginning with the highest priority projects

Subp 4 **Bypass procedure.** If an applicant whose project is identified to receive funding on the intended use plan fails to meet the timing requirements in part 7380.0260, subpart

1, the project shall be bypassed and the loan amount designated for that project shall be offered to the remaining projects on the intended use plan, in priority order, that were not previously identified to receive funding

Subp. 5 **Amendments to intended use plan.** The authority shall amend the intended use plan to add additional eligible projects to the extent sufficient funds are available

**Statutory Authority:** *MS s 446A 081*

**History:** 22 SR 397

### 7380.0260 APPLICATIONS.

Subpart 1 **Timing.** Applicants whose projects are identified to receive funding on the intended use plan described in part 7380.0255 must submit the items specified in items A and B within six months after the date the authority adopts the intended use plan or an amendment to the intended use plan. If the applicant fails to submit these items by the required date, the applicant's project will be subject to the bypass procedure as provided in part 7380.0255, subpart 4. The applicant must

A. submit an application for financial assistance to the authority, and

B. for construction projects, submit plans and specifications to the department as provided in part 4720.9045

Subp. 2 **Financial information.** Financial information submitted by an applicant in support of a loan application to the authority, which may include credit reports, financial statements, and net worth calculations, is private data with regard to data on individuals as defined in Minnesota Statutes, section 13.02, subdivision 12, and nonpublic data as defined in Minnesota Statutes, section 13.02, subdivision 9

Subp. 3 **Municipal profile.** An applicant must submit a municipal profile that contains basic applicant data and information. The profile shall include, at a minimum, population trends, major employers, building permits, largest taxpayers, trends of estimated market values, property tax rates, property tax collection, net tax capacity, indebtedness, budget forecasts, project capital expenditures, educational and health care facilities, and other information deemed necessary by the authority or its rating agencies in order to make an informed determination on the creditworthiness of the applicant. The borrower shall authorize the use of the municipal profile in any official statements of the authority relating to its issuance of bonds and attest that the municipal profile does not contain an untrue statement of material fact, and to notify the authority if the borrower becomes aware of any changes which cause the information in the municipal profile to contain an untrue fact or omit a material fact

Subp. 4 **Complete applications.** An application is considered complete when the applicant has provided the required forms, and the data, exhibits, and documentation which have been submitted are sufficient for the authority to make an informed determination that

A. the financing of the project is fully assured,

B. the applicant has the financial capability to repay the loan, and

C. adequate collateral is being provided by the applicant to secure the loan to the extent required by the authority

Subp. 5 **Incomplete applications.** If an application is received that does not meet the requirements of subpart 4, the application shall be considered incomplete and the applicant shall be asked to provide the required data or information. Should the applicant not respond to the request, 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 60 days, the application shall be rejected, and the applicant, subject to the authority and department rules, must reapply to be further considered

Subp. 6 **Evaluation of certified applications.** The executive director and staff shall evaluate applications for projects certified by the department to determine the applicant's capacity to comply with the act, Minnesota Statutes, section 446A 081, parts 7380.0245 to 7380.0297, the loan agreement, and the covenants of the general obligation bond, revenue bond, or promissory note and security agreement that will be issued by the applicant to the authority. When the department's certification of an applicant's project and the as-bid costs

have been received, the staff shall provide a signed recommendation to the authority, approved and countersigned by the executive director, recommending whether the loan should be approved, approved with special conditions, or rejected

Subp 7 **Rejection of an application.** The authority shall reject an application for financial assistance for one or more of the following reasons

A failure of the project to receive certification by the department under part 4720 9060,

B failure of the applicant to submit a complete application as provided in subpart 4,

C failure of the applicant to develop dedicated sources of revenue sufficient to ensure repayment of the loan and adequate operation and maintenance of the facility,

D failure of the applicant to demonstrate that it has the technical, managerial, and financial capability to construct the facility and adequately operate and maintain the water supply system for the term of the loan,

E failure of the applicant to adequately collateralize the loan; or

F failure of the applicant to demonstrate its capacity to comply with the act, Minnesota Statutes, section 446A 081, parts 7380 0245 to 7380 0297, the loan agreement, and the covenants of the general obligation bond, revenue bond, or promissory note and security agreement that will be issued by the applicant to the authority

**Statutory Authority:** *MS s 446A 081*

**History:** 22 SR 397

#### 7380.0265 LOAN TERMS AND CONDITIONS.

Subpart 1 **In general.** The authority shall provide loans or other financial assistance for eligible costs of projects listed on the intended use plan, or for emergency projects designated by the commissioner of the department, which are not rejected for any of the reasons listed in part 7380.0260, subpart 7 The terms and conditions for loans or other financial assistance provided by the authority to borrowers for certified projects are as provided by the act, Minnesota Statutes, section 446A 081, subdivision 8, parts 7380 0245 to 7380 0297, the capitalization grant, the authority's basic bond resolution and series bond resolution, the loan agreement, and the general obligation bond, revenue bond, or promissory note and security agreement issued by the borrower to the authority for the project financing Borrowers shall also comply with chapter 4720

Subp 2 **Borrowers providing general obligation or revenue bonds.** A borrower providing a general obligation or revenue bond to the authority must use a nationally recognized bond counsel identified as such and included in The Bond Buyer's Municipal Marketplace Directory to prepare the bonds and other related documentation and render an opinion to the authority Items A to F apply to borrowers providing general obligation or revenue bonds to the authority

A The term of the loan shall not exceed 20 years

B The borrower shall designate and maintain dedicated sources of revenue sufficient to fully amortize the loan and to fully provide for the operation and maintenance of the drinking water system

C The borrower shall establish and maintain a debt service account and an operation and maintenance account in amounts to achieve the purposes in items A and B

D The borrower shall maintain the technical, managerial, and financial capability to adequately operate and maintain the water supply system for the full term of the loan

E The borrower shall begin making principal and interest payments on the loan no later than one year after approval of the loan or one year after project completion as estimated in the application, whichever is earlier Subsequent principal and interest payments must be made in the amounts and at the times given in the loan agreement. In no case shall payments be less frequent than annual principal and interest payments sufficient to amortize the debt within the term of the loan.

F If the project involves a significant water user, the borrower must enter into an agreement with the significant water supply user which ensures that the borrower and the

authority are adequately protected in the event the significant water supply user curtails or ceases its operations

Subp 3 **Borrowers not providing general obligation or revenue bonds.** The authority shall provide financial assistance, up to a maximum of \$250,000, to a borrower not providing a general obligation or revenue bond by utilizing either a linked deposit loan or participation loan, as determined by the authority. The terms and conditions in items A to E apply to linked deposit loans and participation loans

A The maximum term of the loan shall first be determined by determining the useful life of the property being acquired with the loan proceeds. The term of the loan shall not exceed the following limits

- (1) 12 years for land, buildings, or other real property,
- (2) the lesser of 80 percent of the useful life or seven years for equipment or machinery, or
- (3) a weighted average of the limits provided in subitems (1) and (2) for loans that are a combination of real property and equipment or machinery

B. Principal and interest payments are due in accordance with the loan agreement and the promissory note

C The borrower shall maintain the technical, managerial, and financial capability to adequately operate and maintain the water supply system for the full term of the loan

D For linked deposit loans, the authority's CD shall be insured by the Federal Deposit Insurance Corporation or secured as provided in Minnesota Statutes, section 118A 03, subdivision 3. The CD term and amount shall be equal to the term and amount of the borrower's loan.

E For participation loans, the financial institution and the authority shall take a security interest in capital assets or real property of the borrower to collateralize the loan

**Statutory Authority:** *MS s 446A.081*

**History:** 22 SR 397

### **7380.0270 INTEREST RATE DETERMINATIONS FOR BORROWERS PROVIDING GENERAL OBLIGATION OR REVENUE BONDS.**

#### **Subpart 1 In general.**

A The interest rate charged a borrower providing a general obligation or revenue bond to the authority for the full amount of the loan shall be based on the quarterly set rate in effect when the application is received and the cumulative interest rate reductions provided in this part, except as provided in subparts 5 and 6. In no case shall the rate of interest on a loan to a borrower be discounted to less than one percent

B In order to effect the purposes and carry out the responsibilities of the authority as provided in Minnesota Statutes, section 446A 081, subdivision 2, and in accordance with the powers vested in the authority in Minnesota Statutes, section 446A 04, subdivision 7, the authority may, by resolution, reset the criteria and the means by which it determines terms, conditions, and interest rates on loans to borrowers, and shall effect the changes after providing public notice

C The authority shall suspend offering loans with interest rates based on the quarterly set rate if it determines that market conditions impacting the municipal bond index are:

- (1) not representative of current market conditions; or
- (2) such that continued use of the index would be detrimental to the viability of the fund

At the time of that determination, the authority shall by resolution adopt a revised rate for a period of time determined by the authority. The authority shall, based on market conditions, extend the offering of loans at the revised 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 set rate

D The data used to determine the population, median household income, and poverty level of the borrower shall be that which most accurately measures the current population, median household income, and poverty level of the borrower's water service area. If there is reason to believe that the United States Census data or the data from the state demog-

rather is not a currently accurate representation of the median household income, poverty level, or population of the borrower's water service area, the borrower may document the reasons why the data is not an accurate representation, and obtain additional information regarding median household income, poverty level, or population of the borrower's water 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. If the authority determines that the demographic data submitted by the borrower does not reflect the most current or accurate measure of the population, median household income, and poverty level of the borrower's water service area, the authority shall update the demographic data to reflect the most current and accurate figures.

**Subp 2 Population discounts.** A borrower shall receive interest rate discounts based on its population according to items A to D.

A A borrower with a population of 25,000 or less and larger than 5,000 shall receive a 25 basis point discount.

B A borrower with a population of 5,000 or less and larger than 2,500 shall receive a 50 basis point discount.

C A borrower with a population of 2,500 or less and larger than 1,000 shall receive a 75 basis point discount.

D A borrower with a population of 1,000 or less shall receive a 100 basis point discount.

**Subp 3 Median household income and poverty level discounts.** A borrower shall receive interest rate discounts based on its median household income and poverty level as follows:

A If the median household income level of the borrower is below the median household income level for the metropolitan or nonmetropolitan area, as applicable, based on the most recent census, the borrower shall receive a 50 basis point discount, or

B If the poverty level of the borrower is at or above the national average, the borrower shall receive a 100 basis point discount.

**Subp 4 Water service charge discounts.** A borrower shall receive interest rate discounts based on its estimated average annual residential water service charges after completion of the project as follows:

A If the estimated average annual residential water service charge is at or exceeds one percent of the median household income level of the borrower, the borrower shall receive a 50 basis point reduction in the interest rate,

B If the estimated average annual residential water service charge is at or exceeds 1-1/2 percent of the borrower's median household income, the borrower shall receive a 100 basis point reduction in the interest rate, or

C If the estimated average annual residential water service charge is at or exceeds two percent of the borrower's median household income, the borrower shall receive a 150 basis point reduction in the interest rate.

**Subp 5 Loans funded through sale of authority bonds.** Items A to C apply to loans funded through the sale of authority bonds.

A Borrowers whose projects are funded through the sale of authority bonds shall have the option, except as provided in items B and C and subpart 6, of selecting an interest rate determined according to subparts 1 to 4, or selecting an interest rate determined by a specific basis point reduction from the true interest cost of the bonds sold by the authority. The authority shall annually provide by resolution the specific basis point reduction it will allow. Borrowers selecting this option must also comply with the following conditions:

(1) the payment schedule of the loan must follow the payment schedule of the bonds sold by the authority,

(2) an acceptable agreement on fund accountability must be reached,

(3) the borrower must demonstrate its creditworthiness; and

(4) the integrity of the fund must be maintained.

B The authority shall have the option to fund projects in excess of \$5,000,000 through the sale of authority bonds and to set the interest rate based on the specific basis point



reduction from the true interest cost of the authority's bonds provided by resolution as described in item A

C If the authority funds a loan through the sale of bonds to a borrower providing a revenue bond to the authority, the interest rate shall be based on the specific basis point reduction from the true interest cost of the authority's bonds provided by resolution as described in item A

**Subp 6 Loans for projects involving significant water users.** If a borrower's project involves a significant water user, the interest rate on the loan or portion of the loan for the project costs directly attributable to the significant water user shall be the same as for United States treasury bills, notes, or bonds of a comparable maturity

**Statutory Authority:** *MS s 446A 081*

**History:** 22 SR 397

### **7380.0275 INTEREST RATE DETERMINATIONS FOR BORROWERS NOT PROVIDING GENERAL OBLIGATION OR REVENUE BONDS.**

**Subpart 1 In general.** The authority shall set the interest rate for a borrower not providing a general obligation or revenue bond to the authority, and utilizing a linked deposit or participation loan, as provided in this part

**Subp 2 Linked deposit loans.** The interest rate on a CD purchased by the authority to effect a linked deposit loan shall be at the rate of the financial institution's interest rate on a CD equal to the term of the loan being made, minus 200 basis points. The interest rate to the borrower on the linked deposit loan made by the financial institution shall be discounted by 200 basis points from the lending rate that the borrower would have been entitled to under normal circumstances. The borrower shall not be entitled to any other interest rate discounts pursuant to part 7380 0270

**Subp 3 Participation loans.** The interest rate on the authority's portion of a participation loan shall be at the rate of a United States government treasury security of a comparable maturity to the term of the loan being made, minus 100 basis points. The interest rate to a borrower on the total amount of a participation loan shall be a blended rate of the financial institution's rate and the authority's rate in proportion to the respective rates of participation. The borrower shall not be entitled to any other interest rate discounts pursuant to part 7380 0270

**Statutory Authority:** *MS s 446A 081*

**History:** 22 SR 397

### **7380.0280 SUPPLEMENTAL ASSISTANCE FOR DISADVANTAGED COMMUNITIES.**

**Subpart 1. In general.** The authority shall provide supplemental assistance, in the form of a reduction in the amount of loan principal which a borrower has to repay, to public water supply systems owned by a governmental or intergovernmental agency, a nonprofit organization, an Indian tribe, or any combination of them that meet the criteria in subpart 2. The total amount of supplemental assistance provided in any one year shall not exceed ten percent of the federal capitalization grant for that year or \$2,000,000, whichever is less

**Subp 2. Disadvantaged community criteria.** A borrower is eligible for supplemental assistance as described in subpart 1 if

A the borrower's project receives public health priority points on the department's project priority list under part 4720 9020,

B after completion of the proposed project, the borrower will have an estimated average annual residential water service charge of 1.4 percent of median household income or more, and

C the borrower has also applied to all other federal and state financial assistance programs for which it is eligible

**Subp 3 Amount of supplemental assistance.** The supplemental assistance amount shall be equal to 80 percent of the amount needed to reduce the estimated average annual residential water service charge to 1.4 percent of median household income. If the current average annual residential water service charge is at or exceeds 1.4 percent of median house-

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hold income, the supplemental assistance amount shall be 80 percent of the project cost. The supplemental assistance amount provided to a single borrower shall not exceed \$500,000

**Statutory Authority:** *MS s 446A 081*

**History:** *22 SR 397*

**7380.0285 OTHER FINANCIAL ASSISTANCE.**

In addition to the loans provided in parts 7380 0265 to 7380 0275 and the supplemental assistance provided in part 7380.0280, the authority may provide other forms of financial assistance as provided in the act and in Minnesota Statutes, section 446A 081, subdivision 9. The executive director shall determine when other forms of financial assistance are appropriate based on existing financial conditions, the impact on the drinking water revolving fund, the financial capacity of the borrower, and the advantages to the borrower in using one form of financing as opposed to another form.

**Statutory Authority:** *MS s 446A 081*

**History:** *22 SR 397*

**7380.0290 FEES.**

If the authority charges fees, they must be as provided in Minnesota Statutes, section 446A 04, subdivision 5, paragraph (a)

**Statutory Authority:** *MS s 446A.081*

**History:** *22 SR 397*

**7380.0295 RELEASE OF FUNDS.**

Subpart 1 **In general.** Subject to the availability of funds, disbursements to the borrower shall be made in accordance with applicable state and federal law governing the disbursements. In addition, no disbursements shall be made to a borrower until and unless the authority has determined the total estimated cost of the project and ascertained that the financing of the project is assured by

A a loan authorized by state law or appropriation of bonds or other money of the borrower to a fund for the construction of the project, and

B an irrevocable undertaking, by resolution of the borrower, to use all the money made available for the project exclusively for 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 money or proceeds of additional bonds to be issued by the borrower

Subp 2 **Adverse change.** The authority shall not release funds to a borrower for an approved project if there has been a material negative change in the financial condition of the borrower, as reasonably determined by the authority, since the day of the completion of the application. The authority reserves the right to suspend or terminate funding to a borrower if the authority determines that there has been such a change

**Subp 3 Withholding, disallowance, or termination of disbursements.**

A. The authority shall withhold or disallow either total or partial disbursements if

(1) the commissioner of the department requests disbursements be withheld or disallowed as provided in part 4720.9075, or

(2) the borrower fails to comply with the requirements of the act, Minnesota Statutes, section 446A 081, parts 7380 0245 to 7380.0297, the loan agreement, or the bonds or promissory note and security agreement issued by the borrower to the authority

B If the authority withholds or disallows disbursements under item A, the executive director shall give a borrower written notice of the reasons and the time in which the borrower must demonstrate that the condition has or will be corrected. If the condition has not been corrected in the specified time period, withheld disbursements may be terminated. Termination of disbursements means that the amount of the loan available to the borrower is reduced by the amount so terminated

**Statutory Authority:** *MS s 446A.081*

**History:** *22 SR 397*

**7380.0296 PENALTY FOR NONCOMPLIANCE WITH LOAN CONDITIONS.**

If a borrower has failed to fully comply with the loan conditions provided in parts 7380 0245 to 7380 0297, the executive director shall notify the borrower in writing of the authority's determination. The borrower has three months from the date of notification to return to compliance or provide a written plan, acceptable to the authority, for returning to compliance. Upon submission of a plan by the borrower, the authority shall either accept or reject the plan. If an accepted plan has a longer time period for returning to compliance, the time period for compliance shall be the period specified in the accepted plan. If after three months the borrower fails to return to compliance or provide an acceptable plan, or fails to return to compliance within the time period specified in an accepted plan, the interest rate on the unpaid loan principal shall increase from and after the date of required compliance to the quarterly set rate in effect when the borrower's loan application was received, with no further discounts as provided in part 7380 0270. If the borrower subsequently returns to compliance, the borrower may request the authority to reinstate the original interest rate. If the authority determines, upon written request of the borrower, that the borrower has returned to compliance, the interest rate on the unpaid loan principal shall revert back to the original interest rate as of the date of the determination by the authority.

**Statutory Authority:** *MS s 446A 081*

**History:** *22 SR 397*

**7380.0297 REPORTS, DISCLOSURE, AND AUDITS.**

**Subpart 1 Reports.** During the term of the loan, the borrower shall make written reports to the authority on forms provided by the authority and on a schedule determined by the executive director.

**Subp. 2 Disclosure.** During the term of the loan, the borrower is required on its own volition to disclose to the authority any material information or events impacting the credit-worthiness of the borrower, including, but not limited to, those requirements contained in Code of Federal Regulations, title 17, section 240 15c2-12 adopted by the United States Securities and Exchange Commission. If and when required by the rule, the borrower shall enter into a continuing disclosure document in a form provided by the authority.

**Subp 3 Audits.** During the term of the loan, the borrower must provide annual independent audits acceptable to the authority. Additionally, a borrower must provide an annual independent audit performed in compliance with the requirements of the federal Office of Management and Budget, circular A-133, published in the Federal Register, volume 61, number 215, on November 5, 1996, and in compliance with the Single Audit Act Amendment of 1996, United States Code, title 31, sections 7501 to 7507. A borrower providing a general obligation or revenue bond to the authority must provide such audits for those years in which the authority disburses \$300,000 or more to the borrower.

**Statutory Authority:** *MS s 446A.081*

**History:** *22 SR 397*

**7380.0705 PURPOSE.**

The transportation revolving loan fund provides loan assistance to eligible borrowers for approved transportation projects. The program is jointly administered by the Minnesota Department of Transportation and the Minnesota Public Facilities Authority. Minnesota Statutes, section 446A 085, authorizes the Minnesota Public Facilities Authority to manage and administer the fund and establishes the transportation committee of the Minnesota Public Facilities Authority to review and approve financial assistance to projects certified by the commissioner of transportation. Parts 7380 0705 to 7380 0775 provide for the authority's administration of its duties under Minnesota Statutes, section 446A.085. Parts 8800.0050 to 8800 0500 provide for the Department of Transportation's responsibilities.

**Statutory Authority:** *MS s 446A.085*

**History:** *23 SR 1353*

**7380.0715 DEFINITIONS.**

**Subpart 1. Scope.** The terms used in parts 7380 0705 to 7380 0775 have the meanings given them in this part.

Subp. 2 **Act.** “Act” means the National Highway System Designation Act of 1995, Public Law Number 104–59, as amended

Subp. 3 **Applicant.** “Applicant” means an eligible borrower under Minnesota Statutes, section 446A 085, subdivision 1, paragraph (b), that applies for a loan from the fund

Subp. 4 **Application.** “Application” means the documents submitted to the executive director of the authority by an applicant that contain information and data in support of the applicant’s loan request to the authority. The application includes the complete application forms provided by the authority. Municipal applicants must submit a municipal profile and current annual budget, or financial forecasts, as applicable, and financial audits for the last three years

Subp. 5 **Authority.** “Authority” means the Minnesota Public Facilities Authority created in Minnesota Statutes, chapter 446A

Subp. 6 **Basis point.** “Basis point” means the shorthand reference to 1/100 (0.01) of one percent

Subp. 7 **Bond market index.** “Bond market index” means a nationally recognized index of yields on tax-exempt bonds, mainly of investment grade, that issuers would pay on issues of various maturities

Subp. 8 **Debt service account.** “Debt service account” means a separate bookkeeping account established and maintained in a borrower’s official financial records to account for the accumulation of resources for, and the payment of, the general obligation bond or revenue bond purchased by the authority

Subp. 9 **Dedicated sources of revenue.** “Dedicated sources of revenue” means one or more sources of revenue pledged by a borrower for repayment of the loan

Subp. 10 **Department.** “Department” means the Minnesota Department of Transportation

Subp. 11 **Eligible costs.** “Eligible costs” means all or part of the cost of a project that may be financed by a loan from the fund provided the costs are permitted under the act and Minnesota Statutes, section 446A 085. Eligible costs include capitalized interest

Subp. 12 **Executive director.** “Executive director” means the executive director of the authority

Subp. 13 **Financial capability.** “Financial capability” means the capability of a borrower to retire debt incurred from the fund, as determined by its fiscal and socioeconomic data through such measures as population trends, median household income, debt per capita, composition of municipal long-term debt, debt service coverage ratio, revenue coverage ratio, planned capital improvements, liquidity, revenue forecasts, audits or financial statements, as applicable, income and earning forecasts, financial forecasts, credit reports, and net worth calculations

Subp. 14 **Fund.** “Fund” means the transportation revolving loan fund created in Minnesota Statutes, section 446A 085

Subp. 15 **General obligation bond.** “General obligation bond” means a bond or note that is secured by the full faith and credit of a borrower as provided in Minnesota Statutes, chapter 475

Subp. 16 **Loan.** “Loan” means financial assistance as defined in Minnesota Statutes, section 446A 085, subdivision 1, paragraph (d)

Subp. 17 **Loan agreement.** “Loan agreement” means the financing agreement between the borrower and the authority that provides the interest rate and the terms and conditions of the loan

Subp. 18 **Municipal profile.** “Municipal profile” means a written document prepared by a municipality that describes population trends, major employers, building permits, largest taxpayers, trends of estimated market values, property tax rates, property tax collection, net tax capacity, indebtedness, budget forecasts, project capital expenditures, educational and health care facilities, and other information deemed necessary by the authority or its rating agencies to make an informed determination on the creditworthiness of the municipality

Subp. 19 **Revenue bond.** “Revenue bond” means a bond or note payable from one or more specified sources of revenue and to which the full faith and credit of the issuing entity is not pledged

Subp 20 **Transportation committee.** "Transportation committee" means a committee of the authority, acting on behalf of the authority, as provided in Minnesota Statutes, section 446A 085, subdivision 1

**Statutory Authority:** *MS s 446A 085*

**History:** *23 SR 1353*

### 7380.0725 APPLICATIONS.

Subpart 1 **Evaluation of loan applications.** The executive director and staff shall evaluate loan applications for projects certified by the department. Loan applications must provide sufficient information to allow the authority to make an informed determination about whether

A the financing of the project is fully ensured,

B the applicant has the financial capability to repay the loan,

C collateral is being provided by the applicant to secure the loan to the extent required in part 7380 0735, subpart 3; and

D the applicant has the capability to comply with Minnesota Statutes, section 446A 085, parts 7380 0705 to 7380 0775, the loan agreement, and the permissible legal covenants of the general obligation bond or revenue bond that will be issued by the applicant to the authority

Subp 2 **Approval or rejection of loan applications.** The transportation committee shall approve a loan application unless it is rejected for one or more of the following reasons

A. failure of the applicant to ensure full project financing,

B failure of the applicant to demonstrate financial capability to repay the loan,

C failure of the applicant to collateralize the loan to the extent required in part 7380 0735, subpart 3,

D failure to develop a dedicated source of revenue sufficient to ensure timely repayment of the loan, or

E failure of the applicant to demonstrate its capacity to comply with Minnesota Statutes, section 446A.085, parts 7380.0705 to 7380 0775, the loan agreement, and the permissible legal covenants of the general obligation bond or revenue bond issued by the applicant to the authority

Subp 3 **Loan agreement.** When the applicant is ready to proceed with a project for which a loan application has been approved by the transportation committee, the executive director shall prepare a loan agreement.

**Statutory Authority:** *MS s 446A 085*

**History:** *23 SR 1353*

### 7380.0735 LOAN CONDITIONS.

Subpart 1 **In general.** Conditions for loans provided by the authority to borrowers for certified projects are as provided by the act, Minnesota Statutes, section 446A 085, parts 7380.0705 to 7380.0775, any applicable bond resolution or series bond resolution of the authority, the loan agreement, and the general obligation bond or revenue bond issued by the borrower to the authority for the project financing

Subp 2 **Specific conditions.** The conditions in items A to E apply to borrowers receiving a loan from the fund

A Borrowers other than the department shall provide a general obligation bond or revenue bond to the authority for the full amount of the loan. Borrowers must use a nationally recognized bond counsel identified as such and included in The Bond Buyer's Municipal Marketplace Directory to prepare bond and other related documents and render an opinion to the authority

B The maximum term of the loan shall not exceed the useful life of the project

C The borrower shall designate and maintain a dedicated source or sources of revenue sufficient to fully amortize the loan.

D The borrower shall designate and maintain a debt service account

E The borrower shall begin making interest payments no later than one year after the execution of the loan agreement and principal payments on the loan no later than three years after the execution of the loan agreement. Subsequent principal and interest payments must be made in the amounts and at the times given in the loan agreement

Subp. 3. **Collateral.** For borrowers providing a revenue bond for a private activity loan as provided in part 7380.0745, subpart 3, the authority shall take a security interest in privately held capital assets or real property to collateralize the loan.

**Statutory Authority:** *MS s 446A.085*

**History:** *23 SR 1353*

### 7380.0745 INTEREST RATE DETERMINATIONS.

Subpart 1. **Bond market index.** Except as provided in subpart 4, the interest rate charged to a borrower shall be as described in items A to C and shall be based on the bond market index on the day prior to the date of the loan agreement

A. A borrower providing a general obligation bond to the authority shall be charged interest based on the yields for a Aaa rated issue

B. The department shall be charged interest based on the yields for a Aaa rated issue

C. A borrower providing a revenue bond to the authority shall be charged interest based on the yields for a Baa rated issue

Subp. 2. **Discounts.** The discount given to a borrower shall be as described in items A and B

A. The authority shall set annually by resolution the discount, if any, that shall be applied to the interest rate determined in subpart 1

B. A borrower under 5,000 population shall receive an additional discount of 100 basis points

Subp. 3. **Private activity loans.** If a loan meets the definition of private activity under section 141 of the Internal Revenue Code of 1986, as amended, the interest rate shall be determined by dividing the rate determined in subparts 1 and 2 by 0.75

Subp. 4. **Loans funded through the sale of authority bonds.** The interest rates charged to a borrower whose project is funded through the sale of authority bonds shall be based on the yields on the authority's bonds, minus any discount set by resolution of the authority.

**Statutory Authority:** *MS s 446A.085*

**History:** *23 SR 1353*

### 7380.0755 OTHER FINANCIAL ASSISTANCE.

In addition to loans, the authority may provide other forms of financial assistance as provided in the act and in Minnesota Statutes, section 446A.085, subdivision 1. The transportation committee shall determine when other forms of financial assistance are appropriate based on existing financial conditions, the impact on the viability of the fund, the financial capacity of the borrower, and the advantages to the borrower

**Statutory Authority:** *MS s 446A.085*

**History:** *23 SR 1353*

### 7380.0765 RELEASE OF FUNDS.

Subpart 1. **In general.** Subject to the availability of funds, disbursements to the borrower shall be made as project costs are incurred in accordance with applicable state and federal law governing such disbursements. In addition, no disbursements shall be made to a borrower until and unless the authority has determined the total estimated cost of the project and ascertained that the financing of the project is ensured by.

A. a loan authorized by state law or appropriation of bonds or other money of the borrower to fund the construction of the project; and

B. an irrevocable undertaking, by resolution of the borrower, to use all the money made available for the project exclusively for 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 money or proceeds of additional bonds to be issued by the borrower.

**Subp. 2 Adverse change.** The authority shall not release funds to a borrower for an approved project until the authority has determined that there has been no adverse change in the financial capacity of the borrower since the day of the completion of the application. The authority reserves the right to suspend or terminate funding to a borrower if the authority determines that there has been an adverse change.

**Subp. 3. Withholding, disallowance, or termination of disbursements.**

A. The authority shall withhold or disallow either total or partial disbursements if the borrower fails to comply with the requirements of the act, Minnesota Statutes, section 446A 085, parts 7380.0705 to 7380.0775, the loan agreement, or the general obligation bond or revenue bond issued by the borrower to the authority

B. If the authority withholds disbursements under item A, the executive director shall give a borrower written notice of the reasons and the time in which the borrower must demonstrate to the authority's satisfaction that the condition has or will be corrected. If the condition has not been corrected in the specified time period, withheld disbursements may be terminated. Termination of disbursements means that the amount of the loan available to the borrower is reduced by the amount terminated.

**Statutory Authority:** *MS s 446A.085*

**History:** *23 SR 1353*

**7380.0775 REPORTS, DISCLOSURE, AND AUDITS.**

**Subpart 1 Project status reports.** During the term of the loan the borrower shall provide written reports to the authority. The content and timing of these reports must be as specified in the loan agreement.

**Subp. 2 Disclosure.** During the term of the loan the borrower must, on its own volition, disclose to the authority any material information or events impacting the creditworthiness of the borrower, including those requirements contained in rule 15c2-12 promulgated by the United States Securities and Exchange Commission, Code of Federal Regulations, title 17, section 240 15c2-12. If and when required by this rule, as determined by the authority, the borrower shall enter into a continuing disclosure document.

**Subp. 3 Audits.** During the term of the loan, the borrower must provide to the authority on an annual basis a financial audit conducted by an independent accounting firm.

**Statutory Authority:** *MS s 446A.085*

**History:** *23 SR 1353*