

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1470 — Docket No. 5.0009.0731

DATE RECEIVED 4/14/88 — ADOPTED W/O HEARING X

REVIEW DATE 4/23/88 — EMERGENCY RULE

DUE DATE 4/28/88

REVISOR APPROVED

APPROVED — REVISOR DISAPPROVED

DISAPPROVED — FIELD W/SEC.STATE

WITHDRAWN 4/27/88 — RETURNED TO AGENCY

✓ √Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~

~~Date published in State Register~~

~~Comments~~

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ √ Proposed rule

yes √Revisor's Certificate

✓ √ Notice of Intent to Adopt Rule

216c.02 Statutory Authority

no Small Business Statement

no Expenditure of public money statement

no Signature

✓ √Statement of Need and Reasonableness

yes Small Business Statement

no Fees - § 16A.128

✓ √Affidavit of Mailing Notice of Intent to Adopt Rule

2/8/88 Date 30/25 days before adoption

✓ √Publication in State Register

2/8/88 Date 30/25 days before adoption

~~Resolution Adopting~~

✓ √Findings of Fact, Conclusions & Order Adopting

3/25/88 Date

Written requests, submissions or comments

✓ √Declaration of attorney

Audrey Zibelman Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

mgc

AG Copy

Department of Public Service

Adopted Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

Rules as Adopted

7660.0010 PURPOSE.

Parts 7660.0010 to 7660.0090 establish the criteria and procedures for granting financial assistance to Minnesota public and private nonprofit institutions for conducting building energy audits using money allocated to the department from the state's allocation of petroleum violation escrow funds.

7660.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7660.0010 to 7660.0090, the following terms have the meanings given them.

Subp. 2. **Authorized cost-share maxi-auditor or auditor.** "Authorized cost-share maxi-auditor" or "auditor" is a person who has met the requirements of part 7660.0040.

Subp. 3. **Building.** "Building" means any existing, separate, enclosed, heated structure owned and operated by a public or private nonprofit institution as defined in this part.

Subp. 4. **Cost-share maxi-audit.** "Cost-share maxi-audit" means a detailed engineering analysis of a building and its energy using systems, including the plumbing, lighting, heating, ventilating, and air conditioning systems. The primary objective of a cost-share maxi-audit is to identify and quantify the economic and engineering feasibility of energy conservation measures for a building and its energy using systems.

Subp. 5. **Cost-share maxi-audit manual or manual.** "Cost-share maxi-audit manual" or "manual" means the manual incorporated by reference in part 7680.0200.

Subp. 6. **Cost-share maxi-audit report or report.** "Cost-share maxi-audit report" or "report" means a written document prepared according to the cost-share maxi-audit manual, as the result of a cost-share maxi-audit of a building.

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Subp. 7. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 8. **Hospital.** "Hospital" means a public or private nonprofit facility licensed under Minnesota Statutes 1986, section 144.50, subdivision 2~~,--that-is-primarily-engaged-in providing-by-or-under-the-supervision-of-physicians-to inpatients:~~

~~A,--diagnostic-services-and-therapeutic-services-for medical-diagnosis,-treatment,-and-care-of-injured,-disabled,-or sick-persons;-or~~

~~B,--rehabilitation-services-for-the-rehabilitation-of injured,-disabled,-or-sick-persons.~~

Subp. 9. **Nursing home.** "Nursing home" means a public or private nonprofit facility or that part of a facility licensed under Minnesota Statutes 1986, section 144A.01, subdivision 5, that provides nursing care to five or more persons.

Subp. 10. **Private nonprofit institution.** "Private nonprofit institution" means an institution owned and operated by a school, hospital, or nursing home as defined in this part that is also exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of ~~1954~~ 1986, or joint power of these.

Subp. 11. **Public institution.** "Public institution" means any public school district or hospital, statutory or home rule charter city, county, or town in Minnesota, or joint power of these.

Subp. 12. **School.** "School" means a public or private nonprofit institution that:

A. provides, and is legally authorized to provide, elementary education or secondary education or both on a day or residential basis;

B. (1) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(2) admits as students only persons having a certificate of graduation from a school providing secondary

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education, or the recognized equivalent of a certificate;

(3) is accredited by a nationally recognized accrediting agency or association; and

(4) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward such a degree at any institution that meets the preceding requirements and provides such a program; or

C. provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and meets the provisions in item B, subitems (1), (2), and (3).

7660.0030 ELIGIBILITY.

All public and private nonprofit institutions are eligible for cost-share maxi-audit grants for buildings that they own and operate. A building for which an institution has received cost-share maxi-audit funds is not eligible for another cost-share maxi-audit grant until five years after the date of the previous cost-share maxi-audit grant payment.

7660.0040 COST-SHARE MAXI-AUDITOR AUTHORIZATION.

An authorized cost-share maxi-auditor is a person who is a professional electrical or mechanical engineer or architect registered in Minnesota and who has:

A. agreed to abide by the requirements of this part when conducting cost-share maxi-audits;

B. agreed to attend mandatory cost-share maxi-audit information training sessions conducted by the department;

C. signed and submitted to the department, upon completion of the mandatory cost-share maxi-audit training, the authorization agreement for cost-share maxi-auditors that is provided in the manual, and is available upon request from the department; and

D. agreed to make appropriate changes and additions to a cost-share maxi-audit report within 30 days after being sent written notification from the department of the required

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changes and additions.

These requirements must be adhered to in order for a person to maintain authorized cost-share maxi-auditor status.

7660.0050 APPLICATION.

Subpart 1. **Process.** The public or private nonprofit institution must submit to the department an application for cost-share maxi-audit funds on a form provided by the department. This application must include the following:

A. the institution name and address;

B. the name and address of the building;

C. the area of the building in square feet;

D. the building audit status, previously maxi-audited or unaudited;

E. the date of the application; and

F. the contact person's name, title, and telephone number.

Subp. 2. **Application period.** The department will process applications in accordance with part 7660.0060, subpart 1, until all funds have been encumbered.

7660.0060 CONTRACT PROCESS.

Subpart 1. **Application review.** Upon receipt of an eligible application from an institution, the department will determine the funding limits for each building according to part 7660.0090, subpart 2, and will prepare a cost-share maxi-audit grant contract for each building.

Subp. 2. **General.** The department will send the prepared contract to the applicant for signatures by two of the applicant's officials authorized to sign contracts. Grant contracts must be signed and returned to the department within 45 days of the department's mailing date to the applicant. If the grant contract has not been returned within 45 days, the funds may be redistributed to other applicants. After complete execution of the grant contract by the state of Minnesota, the department will send to the institution a copy of the fully executed contract, required scope of work, and a list of

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authorized cost-share maxi-auditors.

7660.0070 COST-SHARE MAXI-AUDIT REPORT REVIEW.

The department will review cost-share maxi-audit reports to verify that all requirements of the manual have been fulfilled. If the department review identifies requirements that have not been fulfilled, the department will notify both the grantee and the authorized cost-share maxi-auditor of the necessary changes and additions. The department may conduct an on-site verification of the data contained in the report. When the report has been determined to fulfill all requirements, notice of acceptance will be sent to the grantee.

7660.0080 REIMBURSEMENT.

To be reimbursed for the funds approved in part 7660.0090, subpart 2, the following conditions must be met:

A. The institution must not have contracted for or begun work before the fully executed grant contract was received by the institution.

B. The cost-share maxi-audit must have been conducted by an authorized cost-share maxi-auditor.

C. The institution must have submitted to the department no later than 90 days before the expiration date of the contract, the following:

(1) one copy of the cost-share maxi-audit report signed by an authorized cost-share maxi-auditor for each building that was awarded a cost-share maxi-audit grant; and

(2) one copy of the invoice for the cost-share maxi-audit work, itemized by building.

D. The cost-share maxi-audit report must have met the requirements of the manual.

7660.0090 FUNDING.

Subpart 1. **Priorities.** The department will process grant applications that comply with parts 7660.0010 to 7660.0070 on a first-come first-served basis, based on the day an eligible and complete application is received by the department. If eligible

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and complete applications received on the same day cannot all be funded due to lack of available funds, the department will first process applications for previously unaudited buildings. If funds are not available for all eligible applications for previously unaudited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. If funds are available after processing all eligible applications for previously unaudited buildings, the department will process eligible grant applications for previously audited buildings. If funds are not available for all eligible applications for previously audited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. When all available funds have been encumbered, the department will not process any further applications and affected applicants will be notified.

Subp. 2. **Limits.** Grants will be issued by the department for eligible applications up to the funding limits, based on building size, as shown in the following table. The department will reimburse grantees for 50 percent of the actual cost of a cost-share maxi-audit or the approved grant amount, whichever is less, when the requirements of part 7660.0080 have been met.

Funding Limits for Cost-Share Maxi-Audits

Building Size in Square Feet	Formula	Funding Limits
0 - 5,000	--	$500
5,001 - 25,000	--	$1000
25,001 - 50,000	(Area)($.04/sq. ft.)	$1000 - $2000
50,001 - 100,000	(Area)($.024/sq. ft.) + $ 800	$2000 - $3200
100,001 - 150,000	(Area)($.016/sq. ft.) + $1600	$3200 - $4000
150,001 - 200,000	(Area)($.012/sq. ft.) + $2200	$4000 - $4600
200,001 - 250,000	(Area)($.008/sq. ft.) + $3000	$4600 - $5000
250,001 - and up	--	$5000

Subp. 3. **Restrictions.** Institutions awarded cost-share maxi-audit grants with money from the state's cost-share maxi-audit program cannot use funding from this program for the applicant's share of the cost of their cost-share maxi-audit.

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ium, or other institution in
1.56, without first obtaining a

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434 s 8; 1913 c 579; 1917 c 220
c 512 s 35,37; 1949 c 471 s 14;
1985 c 248 s 70; 1986 c 444

TO LEAD ABSORPTION.

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HOSPITALIZATION

144.50 HOSPITALS, LICENSES; DEFINITIONS.

Subdivision 1. No person, partnership, association, or corporation, nor any state, county, or local governmental units, nor any division, department, board, or agency thereof, shall establish, operate, conduct, or maintain in the state any hospital, sanatorium or other institution for the hospitalization or care of human beings without first obtaining a license therefor in the manner provided in sections 144.50 to 144.56.

Subd. 2. Hospital, sanatorium or other institution for the hospitalization or care of human beings, within the meaning of sections 144.50 to 144.56 shall mean any institution, place, building, or agency, in which any accommodation is maintained, furnished, or offered for: the hospitalization of the sick or injured; the provision of care in a swing bed authorized under section 144.562; elective outpatient surgery for preexamined, prediagnosed low risk patients; emergency medical services offered 24 hours a day, seven days a week, in an ambulatory or outpatient setting in a facility not a part of a licensed hospital; or the institutional care of human beings. Nothing in sections 144.50 to 144.56 shall apply to a clinic, a physician's office or to hotels or other similar places that furnish only board and room, or either, to their guests.

Subd. 3. "Hospitalization" means the reception and care of persons for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of such persons.

Subd. 4. [Repealed, 1980 c 357 s 22]

Subd. 5. Nothing in sections 144.50 to 144.56 shall authorize any person, partnership, association, or corporation, nor any state, county, or local governmental units, nor any division, department, board, or agency thereof, to engage, in any manner, in the practice of healing, or the practice of medicine, as defined by law.

History: *1941 c 549 s 1; 1943 c 649 s 1; 1951 c 304 s 1; 1969 c 358 s 1; 1976 c 173 s 34; 1977 c 218 s 1; 1981 c 95 s 1; 1Sp1985 c 3 s 2*

144.51 LICENSE APPLICATIONS.

Before a license shall be issued under sections 144.50 to 144.56, the person applying shall submit evidence satisfactory to the state commissioner of health that the person is not less than 18 years of age and of reputable and responsible character; in the event the applicant is an association or corporation or governmental unit like evidence shall be submitted as to the members thereof and the persons in charge. All applicants shall, in addition, submit satisfactory evidence of their ability to comply with the provisions of sections 144.50 to 144.56 and all rules and minimum standards adopted thereunder.

History: *1941 c 549 s 2; 1943 c 649 s 2; 1951 c 304 s 2; 1973 c 725 s 7; 1976 c 173 s 35; 1977 c 305 s 45; 1985 c 248 s 70; 1986 c 444*

144.52 APPLICATION.

Any person, partnership, association, or corporation, including state, county, or local governmental units, or any division, department, board, or agency thereof, desiring a license under sections 144.50 to 144.56 shall file with the state commissioner of health a verified application containing the name of the applicant desiring said license; whether such persons so applying are 18 years of age; the type of institution to be operated; the location thereof; the name of the person in charge thereof, and such other information pertinent thereto as the state commissioner of health by rule may require. Application on behalf of a corporation or association or other governmental unit shall be made by any two officers thereof or by its managing agents.

History: *1941 c 549 s 3; 1943 c 649 s 3; 1951 c 304 s 3; 1973 c 725 s 8; 1977 c 305 s 45; 1985 c 248 s 70*

Notice of Intent
not signed.

Authority
216c.02 ok

Rule - Change to Rule as adopted.
p 2 - Definition of 'Hospital' - can it now include hospitals that believed they were not affected by this Rule?

p 4 l 32 - What determines is funds are ~~to~~ redistributed

p 5 l 8 - What determines if an on-site visit is conducted?

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SERVICE

ENERGY DIVISION

In the Matter and the Proposed Adoption of the Rule of the State Department of Public Service Governing the Cost-Share Maxi-Audit Grants for Public and Private Non-profit Institutions.

WITHDRAWAL OF RULE FROM REVIEW BY ATTORNEY GENERAL

Notice is hereby given that the Minnesota Department of Public Service has ordered the withdrawal of the above named proposed Rule from review by the Attorney General.

April 27, 1988

Ken Nickolai

Ken Nickolai
Deputy Commissioner
Department of Public Service

Statement of Need and Reasonableness

Cost-Share Maxi-Audit Program for Public and Private non-profit Institutions

I. This Statement of Need and Reasonableness describes the permanent rules proposed for the Cost-Share Maxi-Audit Grant Program for public and private non-profit institutions. The proposed rules are modeled on the rules of the State Cost-Share Maxi-Audit Grant Program, the Department, and other state agencies which operate similar programs and also on the procedures published at State Register January 30, 1984 (8S.R. 1614).

II. Impact on Small Business

The proposed rules create a program of financial assistance to minnesota public and private non-profit institutions to conduct building energy audits and, as such, have no direct effect on small businesses. Rules covering programs such as this are exempted from Minn. State., sec. 14.115 by subd. 7(b) which exempts rules which do not directly affect small businesses.

III. Need and Reasonableness of Each Rule Provision.

Proposed part 7660.0010 states the purpose of the proposed rules. This part is needed to introduce the proposed rules and its reasonableness is self evident.

Proposed part 7660.0020 defines terms which have distinct meanings when used within the context of these rules.

Subpart 1 is needed as an introductory and explanatory sentence regarding the use of the definitions. Its reasonableness is self evident.

Subpart 2 defines an authorized cost-share maxi-auditor as a person who has met the requirements of part 7660.0040 of the proposed rules. It is needed to give the reader a specific definition for a term used often within the rule. As such, its reasonableness is self-evident.

Subpart 3 defines building as any existing, separate, enclosed, heated structure owned and operated by an institution. This definition is needed to identify those buildings which are eligible for the grant program. It is necessary and reasonable to specify existing because an audit cannot be conducted on a building not yet constructed. It is necessary to specify separate to make clear that building wings or additions are not individually eligible for grants. It is reasonable to require that buildings be audited as a whole because the energy use in part of a building is inextricably intertwined with use in other parts. It is necessary to specify enclosed to eliminate buildings such as band shells and picnic shelters from grant consideration. It is reasonable to exclude such

buildings because their energy saving potential is small, and, given the limited funds available for audits, those funds should be directed toward buildings with greater savings potential. It is necessary to specify owned and operated by a public or private non-profit institution (as defined in 7660.0020, Subparts 10 & 11) to clearly state the types of organizations that are eligible for a grant, and the buildings for which they are eligible. It is reasonable to limit eligibility to public or private non-profit institutions to match the eligible institutions of the Institutional Energy Loan Program which is being funded from these petroleum violation escrow funds. It is reasonable to require that a building be owned and operated by an institution because, ultimately, the purpose of the grant program is to induce institutions to make capital improvements in their facilities that may have a near term negative effect on cash flow, but which over the useful life of the improvement provide a significant net benefit. While present ownership and operation does not guarantee that the institution will remain the beneficiary over the useful life of an improvement, the institution, as owner, does control the decision to change that status. Furthermore, if the building is sold, such capital improvements should be reflected in the sale price.

Subpart 4 defines Cost-Share Maxi-Audit. This definition is needed to establish a specific meaning for a term that is not in common usage. It is reasonable because it is consistent with other

definitions of maxi-audit in statue (116J.06 Subdivision 12; 116J.37, Subdivision 1, paragraph b as amended by Laws of Minnesota 1987, Chapter 289, Section 1, paragraph b).

Subpart 5 defines Cost-Share Maxi-Audit manual or manual as the manual incorporated by reference in part 7680.0200 of the State's Cost-Share Maxi-Audit Program Rules. It is needed to provide a shorthand term for a reference used often in the rule, and is reasonable because it makes the rule easier to read.

Subpart 6 Cost-Share Maxi-Audit report is defined as a written document prepared according to the cost-share maxi-audit manual as the result of a cost-share maxi-audit of a building. It is needed to provide a shorthand term for a document referred to often in the rule, and is reasonable because it makes the rule easier to read.

Subpart 7 defines department to mean the Minnesota Department of Public Service. It is needed and reasonable to provide a shorthand term to make the rule more readable.

Subpart 8 defines "Hospital" The department intends to broaden the definition in the final rule to match the definition of licensed hospitals as found in Minnesota Statutes Chapter 114.50. This does not constitute a substantive change under Minnesota Rules 2010.1000 Item D. It is necessary and reasonable to define so that only licensed hospitals can participate.

Subpart 9 defines Nursing Home. It is necessary and reasonable to ensure that only licensed nursing homes can apply.

Subpart 10 Private Non-profit Institutions is defined to clarify which private non-profit institutions can apply. It is reasonable to limit the institutions eligible under this program to those that are eligible for the Institutional Energy Loan Program (IELP)

Subpart 11 defines Public Institution. It is needed to clarify which Public Institutions are eligible under this program. It is reasonable to limit the institutions eligible under this program to those that are eligible for the IELP

Subpart 12 defines School. It is needed to identify the types of schools eligible for program funds. It is reasonable to limit the schools eligible under this program to those that are eligible for the IELP.

Proposed part 7660.0030 establishes the criteria for eligibility for grants. The need and reasonableness of the provisions in the first sentence of this part are explained in the portion of this statement related to part 7660.0020 subpart 3. These provisions are repeated here for clarity's sake.

The second sentence of this part is necessary to exclude a building

from grant consideration for five years after receiving a cost-share grant to allow limited grant funds to remain available for other buildings. It is reasonable because, were a limit not imposed, an institution could repeatedly receive grants to do "new audits" that would essentially be minor updates of the previous audit. Institutions often do minor updates, at their own expense, to prepare applications for grant and loan programs operated by the department. If these qualified for a cost-share audit grant, it is likely that as much as one-third of the available funds would be used for that purpose, thereby severely limiting the funds available to other institutions. It is reasonable to set the limit at five years because after that period it can be assumed, based on the department's experience, that sufficient changes in technology and costs have occurred to make the existing audit obsolete, while within that period the audit should remain sufficiently current.

7660.0040 establishes criteria for cost-share maxi-auditor authorization. It is necessary to set standards for maxi-auditors to ensure that the auditor is technically qualified to perform an audit, familiar with the specific requirements of the audit, and qualified, under rule, to perform an audit eligible for submission in an ECM loan or grant application. It is necessary to provide for authorization of auditors to establish a means to resolve problems with audits not meeting the required standard, and to establish a means to remove a recalcitrant auditor from eligibility for future audit work.

It is necessary and reasonable to specify that an auditor be a professional electrical or mechanical engineer or architect to ensure that the auditor is knowledgable in the areas necessary to perform an audit, and to comply with requirements of ECM grant and loan programs. It is necessary and reasonable to require that an auditor be registered in Minnesota to ensure that the auditor is familiar with Minnesota's Building Code and Energy Code, and to comply with requirements of ECM grant and loan programs. It is necessary to require that an auditor agree to abide by the requirements of this part in conducting maxi-audits to provide a clear indication on the part of the auditor that he/she is aware of and consents to these requirements. It is reasonable to do so because loss of authorization is a consequence of noncompliance with these requirements, and if the department is to impose such a penalty, it should assure itself that the auditor was aware of that penalty.

It is necessary to require that an auditor agree to attend mandatory training sessions to ensure that the department is able to disseminate information it believes to be essential to the successful completion of an audit. It is reasonable to require that an auditor attend such sessions because, in the department's experience, auditor training is best accomplished through the use of both written materials and in-person presentations. It is necessary to require an auditor to sign and submit the authorization agreement

to provide a written record of the auditor's awareness of and consent to the authorization requirements. It is reasonable to do so because, given the severity of the penalty for noncompliance, the department should provide itself with proof of an auditor's consent. It is necessary and reasonable to require that the agreement be signed after completion of training to ensure that the auditor's consent be informed. It is necessary to require an auditor to agree to make appropriate changes to an audit report to make clear that the auditor understands that it is his/her responsibility to rectify any shortcomings in an audit report. It is reasonable to do so because the auditor's role in the audit grant process is to properly perform an audit, and statisfactory completion of an audit occurs only upon submission of a report meeting the audit standard. It is necessary and reasonable to require that changes be made within thirty days of written notice to provide a specific time limit for fulfillment of the requirement. It is reasonable to set that limit at thirty days because it allows ample time to make any needed changes. It is necessary to require an auditor to adhere to the requirements of this part to maintain authorization to provide the department with a means of enforcement of these requirements. It is reasonable because the department requires an institution to contact with an auditor on the authorized list (7660.0080). While the department makes no guarantee as to an authorized auditor's performance, it would be remiss in knowingly

providing a list that includes auditors who have previously failed to comply with minimum requirements.

Part 7660.0050 describes the application process.

Subpart 1 states that an applicant must submit an application to the department on a form provided by the department. This subpart is needed to inform applicants of the proper receipt of an application, and to provide a consistent format for all applications. It is reasonable to require a standard application form to assist the applicant in identifying the information necessary for a complete application. The subpart then lists the required contents of an application. It is needed to clearly delineate the required contents. It is reasonable to do so because, for determining order of funding, an application will be considered to be received by the department only if it is complete (7660.0090). If the department is to decide that an application is incomplete, it must have a specific standard for doing so. The need and reasonableness of requiring the applicant's name and address and the name and address of the building for which application is being made are self-evident. It is necessary and reasonable to require the building square footage to determine the funding limit for that building. It is necessary and reasonable to require the building audit status to assist the department in determining whether the building is eligible under

part 7660.0020. It is necessary and reasonable to require the date of application to distinguish an application from any others submitted for that building on other dates. It is necessary and reasonable to require a contact person's name, title and telephone number to identify a representative of the applicant designated to receive the grant contract and to contact should the department require further information

Subpart 2 states that the department will process applications in accordance with part 7660.0090 subpart 1 until all funds are encumbered. It is necessary and reasonable to inform the applicant of the department's actions upon receipt of an application. The need for and reasonableness of part 7660.0090 subpart 1 will be discussed at that part.

Part 7660.0060 describes the contact process.
Subpart 1 states that the department will determine funding limits according to part 7660.0090 subpart 2 and prepare a grant contract for each building in an eligible application. The need to assign these tasks to one of the involved parties is self-evident. It is reasonable that the department determine the funding limits and prepare the grant contracts to ensure that the funding limit is properly calculated and that the state's interests, as grantor, are properly protected in the contracts. It is necessary and reasonable

to prepare a contract for each building because, in the department's experience, grantees often apply for funds for more buildings than are eventually audited. The department believes that it is simpler, for both parties, to void the contracts for those buildings not audited (or allow the contracts to expire) than to amend a single multi-building contract each time the grantee decides to eliminate a building from the scope of work to be performed.

Subpart 2 states that the department will send the prepared contract to the applicant for signature by two of the applicant's officials authorized to sign contracts. It is necessary and reasonable to require the signature of two officials to insure that an official does not act unilaterally in committing the applicant to the contract. Subpart 2 also states that a contract must be signed and returned within 45 days of mailing by the department, and that if this requirement is not met, the funds may be redistributed to other applicants. This provision is necessary to compel timely execution of contracts, and to allow the department to redirect funds if the applicant does not act in a timely manner. It is reasonable to do so because, barring such a provision, the department could not redirect those funds until the expiration date of the pending contract. If all available grant funds have been encumbered, and other applicants await funds, the department believes that it is appropriate to allow another applicant an opportunity to use those

funds. It is reasonable to limit the time allowed to 45 days because, as the governing bodies of institutions generally meet at least once within that timespan, it allows ample time to secure the governing body's approval, if needed. Subpart 2 also states that, after complete execution of the contract, the department will send the institution a copy of the fully executed contract, required scope of work, and a list of authorized cost-share maxi-auditors. It is necessary and reasonable to send the grantee a copy of the contract and required scope of work so that the grantee has a record of the requirements of the agreement. It is necessary and reasonable to send the grantee a list of authorized auditors to inform the grantee of the group of persons who are eligible to perform the audits.

Part 7660.0070 describes the Cost-Share Maxi-Audit report review. It states that the department will review audit reports to verify that the requirements of the audit manual have been met. It is necessary and reasonable because compliance with the requirements of the audit manual is a condition of grant fulfillment (7660.0080, D). The part further states that, if shortcomings are identified, the department will notify both the grantee and the auditor. The need and reasonableness of notifying the grantee is self evident. It is necessary and reasonable to notify the auditor because, under part 7660.0040 (D), the auditor is required to make the needed corrections. The part also states that the department may conduct

an on-site verification of audit data. It is necessary and reasonable to allow the department of resolve questions concerning audit data, if written and oral information do not provide adequate clarification. Finally, the part states that a notice of acceptance will be sent to the grantee upon determination that the audit requirements have been met. It is necessary and reasonable to inform the grantee of the department's determination.

Part 7660.0080 states the conditions to be met for payment of the grant funds. (A) It is necessary to require that work cannot be contracted for or begun before receipt of the fully executed grant contract to discourage applicants from entering into contractual obligations prior to securing a means of repayment. It is reasonable because, in requiring the applicant to wait until an executed contract is in hand, the impact of a potential misunderstanding of the department's intent to fund an application can be minimized. (B) The need for and reasonableness of the requirement that an audit be conducted by an authorized auditor are discussed at the section of this statement pertaining to part 7660.0040. (C) It is necessary and reasonable to require the grantee to submit the maxi-audit report so the department can determine that the audit requirements have been met. It is necessary and reasonable to require the grantee to submit the invoice for the audit work, itemized by building, to determine the allowable grant amount for each building. It is necessary to require that the audit and invoice be submitted 90 days prior to the

expiration of the grant contract to allow sufficient time fordepartment review, corrections and additions if needed, and processing of the payment request. It is reasonable to allow sufficient time because payment on the grant cannot be made after the expiration date of the grant. (D) the need for and reasonableness of the requirement that the audit meet the requirements of the manual are discussed at the section of this statement pertaining to part 7660.0030.

Part 7660.0090 describes the priorities and funding limits under which grants will be awarded. Subpart 1 states that applications will be funded on a first come, first served basis, except when sufficient funds are not available to fund all eligible applications received on the same day. The subpart then establishes a funding priority for applications for buildings not previously audited and provides for proportional funding of applications when sufficient funds are not available to fully fund those applications. The subpart also provides for proportional funding of applications for previously audited buildings after fully funding applications for buildings not previously audited. This subpart is needed to establish a method to determine the priority of an application. It is reasonable because, when sufficient funds are available, all eligible applicants are given an equal opportunity to receive loan funds. It is reasonable to give unaudited buildings a higher priority when sufficient funds are not available because an

applicant with a previous, albeit outdated, audit has some useful information available in the existing audit, and has a document that can be used for grant and loan applications. Having made this priority determination, the department believes that any other fair assessment of priority would require the submission of a burdensome amount of financial information by the applicant. It is, therefore, more reasonable to give an equal percentage of the eligible grant amount to each applicant with the same priority.

Subpart 2 sets grant funding limits at the lesser of 50% of the audit cost or a funding maximum based on the building's area. It is necessary and reasonable to set a maximum funding limit to allow widespread distribution of grant funds, and to discourage overcharging for audits. The limits used are reasonable because they are based on average historical costs for maxi-audits funded by the department and its predecessors. It is necessary to limit grants to a percentage of audit costs to provide a local investment in the audit. It is reasonable to do so because, with limited grant funds, the department wishes to leverage other funds to increase the impact of this program. Furthermore, experience has shown that, when no local contribution is required, applicants have given little consideration to cost effectiveness in choosing buildings to audit. Applicants required to make an investment in an audit tend to examine more carefully the potential benefit of the audit. It is reasonable to set the limit at 50% because it allows a significant

leveraging of other funds while providing sufficient inducement for program participation.

Subpart 3 restricts the use of these grant funds as match for other grant funds available from the department. It is necessary to provide a local investment in the audit. The reasonableness of requiring local investment is discussed in the previous paragraph.

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ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

Department of Public Service

Adopted Permanent Rules Relating to Institutional Energy Loan Program (IELP)

Rules as Adopted

7605.0010 PURPOSE OF INSTITUTIONAL ENERGY LOAN PROGRAM.

The purpose of this chapter is to establish the application procedures by institutions and set criteria for review and recommendation of loan applications.

7605.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means a public or private nonprofit institution, as defined in this part that is making application for funds under this program.

Subp. 3. **Building.** "Building" means any existing, separate structure owned and operated by a public or private nonprofit institution as defined in this part.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Public Service.

Subp. 5. **Conservation measure.** "Conservation measure" means an installation or modification of an installation to a building or stationary energy using system outside of a building, that is primarily intended to reduce energy consumption or allow the use of an alternative energy source including solar, wind, peat, wood, and agricultural residue.

Subp. 6. **Financial institution.** "Financial institution" means a bank, bank or trust company, trust company, mortgage company, credit union, mortgage banker, national banking association, savings bank, savings association, savings and loan association, building and loan association, insurance company, securities broker-dealer, financial organizations relating to commercial credit or venture capital, or a lender certified by the secretary of housing and urban development or by the

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administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration or any other financial or lending institution, whether organized under federal law or the laws of any state of the United States, and whether located within or without this state.

Subp. 7. **Hospital.** "Hospital" means a public or private nonprofit facility licensed under Minnesota Statutes, section 144.50, subdivision 2~~,--which-is-primarily-engaged-in-providing to-inpatients-by-or-under-the-supervision-of-physicians:~~

~~A,--diagnostic-services-and-therapeutic-services-for medical-diagnosis,-treatment,-and-care-of-injured,-disabled,-or sick-persons;-or~~

~~B,--rehabilitation-services-for-the-rehabilitation-of injured,-disabled,-or-sick-persons~~.

Subp. 8. **Lender.** "Lender" means the Minnesota Department of Finance, a private or community foundation, or a financial institution as defined in this part which issues a loan to an applicant to implement energy conservation measures.

Subp. 9. **Nursing home.** "Nursing home" means a public or private nonprofit facility or that part of a facility licensed under Minnesota Statutes, section 144A.01, subdivision 5, which provides nursing care to five or more persons.

Subp. 10. **Payback.** "Payback" means the simple payback that is equal to the sum of the design, acquisition, and installation costs of a conservation measure divided by the estimated first year energy cost savings attributable to that measure.

Subp. 11. **Private nonprofit institution.** "Private nonprofit institution" means an institution owned and operated by a school, hospital, or nursing home or joint power of these as defined in this part which is also exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986.

Subp. 12. **Project.** "Project" means all proposed work in a loan application.

Subp. 13. **Public institution.** "Public institution" means

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any public school district or hospital, statutory or home rule charter city, county, or town in Minnesota, or a joint power entity consisting of these units.

Subp. 14. **School.** "School" means a public or private nonprofit institution:

A. that provides, and is legally authorized to provide, elementary education or secondary education or both on a day or residential basis;

B. that:

(1) provides, and is legally authorized to provide, a program of education beyond secondary education on a day or residential basis;

(2) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(3) is accredited by a nationally recognized accrediting agency or association; and

(4) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program; or

C. that provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions in item B, subitems (1) to (3).

7605.0030 LOAN ELIGIBILITY CRITERIA.

Subpart 1. **In general.** The commissioner shall approve IELP applications from applicants in compliance with this chapter for conservation measures that have a payback of ten years of less.

Subp. 2. **Eligibility.** Funds are available to applicants to finance:

A. projects which have not previously received funds under this program;

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B. an amendment to an existing loan, to fund cost overruns for projects in progress, or previously unidentified but related work which is necessary for successful implementation of the previously approved project, provided the projects as amended continue to meet the requirements of this chapter.

Subp. 3. **Prior approval required.** Except for the amendments in subpart 2, projects for which acquisition or installation have been contracted for or begun before approval by the commissioner are ineligible. This prior approval requirement does not apply to design activities.

Subp. 4. **Useful life.** Funds may not be awarded to buildings or energy using systems with a remaining useful life less than or equal to the payback of the conservation measure proposed. Funds may not be awarded for a conservation measure if the payback of the conservation measure proposed is greater than or equal to the useful life of the measure.

Subp. 5. **New construction.** Only projects for existing buildings and energy using systems are eligible. New construction is only eligible if it is necessary for successful implementation of a conservation measure for an existing building or stationary energy using system.

7605.0040 LOAN LIMITS.

Funds issued under this program will be used to participate in loans originating from a lender up to a maximum of 50 percent of the loan principal or $200,000, whichever is less. While more than one loan may be issued to an applicant, the sum of funds issued from this program may not exceed $200,000.

7605.0050 APPLICATION CONTENTS.

Subpart 1. **In general.** An applicant shall submit a complete application to the commissioner on forms provided by the commissioner. An application must be signed in ink by an authorized official of the applicant, must include the authorized official's title, and must be dated.

Subp. 2. **Contents.** An application must contain, at a

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minimum:

A. the name and complete mailing address, including county, of the applicant;

B. a contact person's name, title, and telephone number;

C. a list of buildings or stationary energy using systems included in the application and the dollar amount requested per building or stationary energy using system;

D. the name and address, total floor area in square footage, or number of units in a stationary energy using system;

E. the original construction date and addition construction dates of the building;

F. the age of a stationary energy using system; and

G. the state legislative district affected by the application.

An application must also contain a summary description of each proposed conservation measure, including its estimated cost, loan amount requested, estimated annual energy cost savings, estimated annual fuel and electric savings, estimated payback, and the estimated dates the conservation measure will be started and completed.

Subp. 3. **Technical support materials.** All applications for IELP funds must contain fuel and electric consumption data for the most recent completed period July 1 to June 30, for each building or stationary energy using system in the application. Applications must also contain a description of the current condition of the building, the building component, equipment or stationary energy using system to be improved, and the proposed conservation measure. Sufficient engineering analysis to determine technical feasibility and project payback must be included. All conservation measures must be analyzed using the energy conservation development sheet format available from the commissioner.

Applications for matching loans of $25,000 or more shall have the analysis for projects conducted by a Minnesota registered mechanical engineer, electrical engineer, or

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architect. Applications must include an Engineering Analysis Report Summary or a Maxi-Audit Report Form available from the commissioner.

Subp. 4. **Assurances.** An applicant must also submit assurances that:

A. it has provided for the proper and efficient operation and maintenance of the proposed conservation measures;

B. the work performed with loan funds will meet all Minnesota building code requirements;

C. it has provided funds to pay any portion of the project cost not eligible for program funds specifically identifying the source of those funds;

D. it has met requirements for voter approval, if applicable; and

E. it is able to accept and repay the proposed program funds without exceeding applicable debt and levy limits.

Subp. 5. **Incomplete applications.** If an incomplete application is received, the commissioner shall notify the applicant of specific deficiencies in the application. The applicant has 30 days from the date of the commissioner's notification to complete the application. If the application is not completed and received by the commissioner within 30 days, the application is considered withdrawn. To be further considered, the applicant must reapply.

7605.0060 LENDER.

In order to be eligible to receive funds under this program, a participating lender's agreement provided by the commissioner must be signed by an authorized officer of the lender. The agreement shall set the terms and conditions under which a loan is to be made and specify procedures to be followed in the event of default by the applicant. The agreement must require the lender and the commissioner to conform to the following conditions:

A. The lender will enter into a loan agreement with the applicant. The loan agreement will include the following:

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(1) an agreement that the commissioner may review upon request all financial data of the applicant and may inspect any and all buildings, equipment, and stationary energy using systems associated with a loan; and

(2) an irrevocable resolution of the applicant's governing body guaranteeing that it will use all loan funds solely for the eligible costs of the proposed project; it will repay the loan according to the terms of the loan; and it will annually levy or otherwise collect funds to meet the annual repayment costs of the loan.

B. The lender shall make no provision to subordinate any loan collateral to other liens against such property without prior written approval from the commissioner.

C. The lender shall not acquire any preferential collateral, surety, or insurance to protect its interest in a loan.

D. All collateral must be prorated between the lender and the commissioner.

E. The lender shall require the applicant to adequately insure, maintain, and repair all collateral.

F. The lender shall review and approve qualified energy projects in accordance with generally accepted commercial lending practices.

G. The lender is responsible for servicing all loans it makes for conservation measures either directly or by contracting with a servicing agent.

H. The lender shall not sell or transfer any loan without prior written approval from the commissioner.

I. The lender, for the term of the entire loan, shall promptly notify the commissioner of any loan payments that are two weeks overdue. The lender shall provide the commissioner with any and all past due notices at the same time they are sent to the applicant. In addition, the lender must submit an annual loan performance report to the commissioner on a form provided by the commissioner.

J. The commissioner shall not participate in any loan

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that either carries an interest rate in excess of three points above the lender's prime rate or base rate for variable or fixed rate loans.

K. The lender agrees not to make any amendments to the loan agreement after loan closing without prior written approval of the commissioner.

L. The lender agrees to make no waivers of default without prior written approval from the commissioner.

M. The department shall not participate in loans made by a lender before the execution of the participating lender's agreement.

N. The commissioner may review upon request all financial data associated with the execution and servicing of a loan made by the lender.

O. Any and all payments received by the lender shall first be credited to interest due on a pro rata basis and then be credited to the principal balance due, on a pro rata basis.

7605.0070 APPLICATION REVIEW.

Subpart 1. **Administrative review.** The commissioner shall examine the loan application to verify that the applicant is eligible, that the required forms are included and correctly completed, that the required assurances and irrevocable resolution are included, and that the application is properly signed and dated.

Subp. 2. **Technical review.** The commissioner shall examine the technical support materials included in the application to verify that the proposed conservation measures are analyzed with adequate details of existing conditions and proposed modifications or additions, that appropriate calculation procedures are used, that the proposed conservation measures are eligible, and that the proposed conservation measures are technically feasible and meet requirements of this chapter.

Subp. 3. **Rejection and resubmission.** The commissioner may accept, reject, or modify a loan application as necessary based on the application review. The commissioner shall notify an

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applicant of cause for modification or rejection of an application and the options available to correct those problems for resubmission of the application. If some of the conservation measures in an application are accepted as submitted, the applicant may choose to accept a loan for those measures.

7605.0080 REPORTS AND MONITORING.

Subpart 1. **In general.** An applicant that receives IELP funds shall submit the reports listed in subparts 2 to 5.

Subp. 2. **Annual project status report.** The applicant shall submit to the commissioner on forms provided by the commissioner an annual project status report covering the period July 1 through June 30. This report is due each July 31 until the project is completed.

The project status report must indicate the progress of the implementation of the project, problems encountered, the effect of the problems on the project, and the corrective action taken. If at any time the applicant fails to substantially comply with the start and end dates given in the loan application as approved, and if the applicant cannot reasonably justify to the commissioner its lack of progress, the entire loan amount may become due and payable at the discretion of the commissioner.

Subp. 3. **Semiannual financial report.** The applicant shall submit to the commissioner on forms provided by the commissioner, a semiannual financial status report that indicates expenditures of loan funds through the last date of each report period. This report is due on July 31 for the period January 1 to June 30, and January 31 for the period July 1 to December 31 until the project is completed.

Subp. 4. **Final report.** Within 60 days of the completion of the project, the applicant shall submit to the commissioner, on forms provided by the commissioner, a final project status report and a financial status report that gives actual expenditures of the conservation measures implemented.

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Subp. 5. **Annual energy report.** The applicant shall submit to the commissioner, on forms provided by the commissioner, an annual fuel and electric consumption report due each October 31 for the duration of the loan contract period, or for a minimum of three years after project completion if the loan is paid in less than three years, unless the commissioner cancels this requirement before the end of the loan contract period.

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Administrative Rules

TITLE: Adopted Permanent Rules Relating to Institutional Energy Loan Program (IELP)

AGENCY: Department of Public Service

MINNESOTA RULES: Chapter 7605

The attached rules are approved for
filing with the Secretary of State

David S. Niss
Assistant Revisor

Department of Public Service

Adopted Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

Rules as Adopted

7660.0010 PURPOSE.

Parts 7660.0010 to 7660.0090 establish the criteria and procedures for granting financial assistance to Minnesota public and private nonprofit institutions for conducting building energy audits using money allocated to the department from the state's allocation of petroleum violation escrow funds.

7660.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7660.0010 to 7660.0090, the following terms have the meanings given them.

Subp. 2. **Authorized cost-share maxi-auditor or auditor.** "Authorized cost-share maxi-auditor" or "auditor" is a person who has met the requirements of part 7660.0040.

Subp. 3. **Building.** "Building" means any existing, separate, enclosed, heated structure owned and operated by a public or private nonprofit institution as defined in this part.

Subp. 4. **Cost-share maxi-audit.** "Cost-share maxi-audit" means a detailed engineering analysis of a building and its energy using systems, including the plumbing, lighting, heating, ventilating, and air conditioning systems. The primary objective of a cost-share maxi-audit is to identify and quantify the economic and engineering feasibility of energy conservation measures for a building and its energy using systems.

Subp. 5. **Cost-share maxi-audit manual or manual.** "Cost-share maxi-audit manual" or "manual" means the manual incorporated by reference in part 7680.0200.

Subp. 6. **Cost-share maxi-audit report or report.** "Cost-share maxi-audit report" or "report" means a written document prepared according to the cost-share maxi-audit manual, as the result of a cost-share maxi-audit of a building.

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Subp. 7. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 8. **Hospital.** "Hospital" means a public or private nonprofit facility licensed under Minnesota Statutes 1986, section 144.50, subdivision 2~~,--that-is-primarily-engaged-in providing-by-or-under-the-supervision-of-physicians-to inpatients:~~

~~A,--diagnostic-services-and-therapeutic-services-for medical-diagnosis,-treatment,-and-care-of-injured,-disabled,-or sick-persons;-or~~

~~B,--rehabilitation-services-for-the-rehabilitation-of injured,-disabled,-or-sick-persons~~.

Subp. 9. **Nursing home.** "Nursing home" means a public or private nonprofit facility or that part of a facility licensed under Minnesota Statutes 1986, section 144A.01, subdivision 5, that provides nursing care to five or more persons.

Subp. 10. **Private nonprofit institution.** "Private nonprofit institution" means an institution owned and operated by a school, hospital, or nursing home as defined in this part that is also exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of ~~1954~~ 1986, or joint power of these.

Subp. 11. **Public institution.** "Public institution" means any public school district or hospital, statutory or home rule charter city, county, or town in Minnesota, or joint power of these.

Subp. 12. **School.** "School" means a public or private nonprofit institution that:

A. provides, and is legally authorized to provide, elementary education or secondary education or both on a day or residential basis;

B. (1) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(2) admits as students only persons having a certificate of graduation from a school providing secondary

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education, or the recognized equivalent of a certificate;

(3) is accredited by a nationally recognized accrediting agency or association; and

(4) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward such a degree at any institution that meets the preceding requirements and provides such a program; or

C. provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and meets the provisions in item B, subitems (1), (2), and (3).

7660.0030 ELIGIBILITY.

All public and private nonprofit institutions are eligible for cost-share maxi-audit grants for buildings that they own and operate. A building for which an institution has received cost-share maxi-audit funds is not eligible for another cost-share maxi-audit grant until five years after the date of the previous cost-share maxi-audit grant payment.

7660.0040 COST-SHARE MAXI-AUDITOR AUTHORIZATION.

An authorized cost-share maxi-auditor is a person who is a professional electrical or mechanical engineer or architect registered in Minnesota and who has:

A. agreed to abide by the requirements of this part when conducting cost-share maxi-audits;

B. agreed to attend mandatory cost-share maxi-audit information training sessions conducted by the department;

C. signed and submitted to the department, upon completion of the mandatory cost-share maxi-audit training, the authorization agreement for cost-share maxi-auditors that is provided in the manual, and is available upon request from the department; and

D. agreed to make appropriate changes and additions to a cost-share maxi-audit report within 30 days after being sent written notification from the department of the required

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changes and additions.

These requirements must be adhered to in order for a person to maintain authorized cost-share maxi-auditor status.

7660.0050 APPLICATION.

Subpart 1. **Process.** The public or private nonprofit institution must submit to the department an application for cost-share maxi-audit funds on a form provided by the department. This application must include the following:

A. the institution name and address;

B. the name and address of the building;

C. the area of the building in square feet;

D. the building audit status, previously maxi-audited or unaudited;

E. the date of the application; and

F. the contact person's name, title, and telephone number.

Subp. 2. **Application period.** The department will process applications in accordance with part 7660.0060, subpart 1, until all funds have been encumbered.

7660.0060 CONTRACT PROCESS.

Subpart 1. **Application review.** Upon receipt of an eligible application from an institution, the department will determine the funding limits for each building according to part 7660.0090, subpart 2, and will prepare a cost-share maxi-audit grant contract for each building.

Subp. 2. **General.** The department will send the prepared contract to the applicant for signatures by two of the applicant's officials authorized to sign contracts. Grant contracts must be signed and returned to the department within 45 days of the department's mailing date to the applicant. If the grant contract has not been returned within 45 days, the funds may be redistributed to other applicants. After complete execution of the grant contract by the state of Minnesota, the department will send to the institution a copy of the fully executed contract, required scope of work, and a list of

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authorized cost-share maxi-auditors.

7660.0070 COST-SHARE MAXI-AUDIT REPORT REVIEW.

The department will review cost-share maxi-audit reports to verify that all requirements of the manual have been fulfilled. If the department review identifies requirements that have not been fulfilled, the department will notify both the grantee and the authorized cost-share maxi-auditor of the necessary changes and additions. The department may conduct an on-site verification of the data contained in the report. When the report has been determined to fulfill all requirements, notice of acceptance will be sent to the grantee.

7660.0080 REIMBURSEMENT.

To be reimbursed for the funds approved in part 7660.0090, subpart 2, the following conditions must be met:

A. The institution must not have contracted for or begun work before the fully executed grant contract was received by the institution.

B. The cost-share maxi-audit must have been conducted by an authorized cost-share maxi-auditor.

C. The institution must have submitted to the department no later than 90 days before the expiration date of the contract, the following:

(1) one copy of the cost-share maxi-audit report signed by an authorized cost-share maxi-auditor for each building that was awarded a cost-share maxi-audit grant; and

(2) one copy of the invoice for the cost-share maxi-audit work, itemized by building.

D. The cost-share maxi-audit report must have met the requirements of the manual.

7660.0090 FUNDING.

Subpart 1. **Priorities.** The department will process grant applications that comply with parts 7660.0010 to 7660.0070 on a first-come first-served basis, based on the day an eligible and complete application is received by the department. If eligible

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and complete applications received on the same day cannot all be funded due to lack of available funds, the department will first process applications for previously unaudited buildings. If funds are not available for all eligible applications for previously unaudited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. If funds are available after processing all eligible applications for previously unaudited buildings, the department will process eligible grant applications for previously audited buildings. If funds are not available for all eligible applications for previously audited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. When all available funds have been encumbered, the department will not process any further applications and affected applicants will be notified.

Subp. 2. **Limits.** Grants will be issued by the department for eligible applications up to the funding limits, based on building size, as shown in the following table. The department will reimburse grantees for 50 percent of the actual cost of a cost-share maxi-audit or the approved grant amount, whichever is less, when the requirements of part 7660.0080 have been met.

Funding Limits for Cost-Share Maxi-Audits

Building Size in Square Feet	Formula	Funding Limits
0 - 5,000	--	$500
5,001 - 25,000	--	$1000
25,001 - 50,000	(Area)($.04/sq. ft.)	$1000 - $2000
50,001 - 100,000	(Area)($.024/sq. ft.) + $ 800	$2000 - $3200
100,001 - 150,000	(Area)($.016/sq. ft.) + $1600	$3200 - $4000
150,001 - 200,000	(Area)($.012/sq. ft.) + $2200	$4000 - $4600
200,001 - 250,000	(Area)($.008/sq. ft.) + $3000	$4600 - $5000
250,001 - and up	--	$5000

Subp. 3. **Restrictions.** Institutions awarded cost-share maxi-audit grants with money from the state's cost-share maxi-audit program cannot use funding from this program for the applicant's share of the cost of their cost-share maxi-audit.

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ATTORNEY GENERAL'S OFFICE
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Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

AGENCY: Department of Public Service

MINNESOTA RULES: Chapter 7660

The attached rules are approved for
filing with the Secretary of State

David S. Niss
Assistant Revisor

Department of Public Service

Adopted Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

Rules as Adopted

7660.0010 PURPOSE.

Parts 7660.0010 to 7660.0090 establish the criteria and procedures for granting financial assistance to Minnesota public and private nonprofit institutions for conducting building energy audits using money allocated to the department from the state's allocation of petroleum violation escrow funds.

7660.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7660.0010 to 7660.0090, the following terms have the meanings given them.

Subp. 2. **Authorized cost-share maxi-auditor or auditor.** "Authorized cost-share maxi-auditor" or "auditor" is a person who has met the requirements of part 7660.0040.

Subp. 3. **Building.** "Building" means any existing, separate, enclosed, heated structure owned and operated by a public or private nonprofit institution as defined in this part.

Subp. 4. **Cost-share maxi-audit.** "Cost-share maxi-audit" means a detailed engineering analysis of a building and its energy using systems, including the plumbing, lighting, heating, ventilating, and air conditioning systems. The primary objective of a cost-share maxi-audit is to identify and quantify the economic and engineering feasibility of energy conservation measures for a building and its energy using systems.

Subp. 5. **Cost-share maxi-audit manual or manual.** "Cost-share maxi-audit manual" or "manual" means the manual incorporated by reference in part 7680.0200.

Subp. 6. **Cost-share maxi-audit report or report.** "Cost-share maxi-audit report" or "report" means a written document prepared according to the cost-share maxi-audit manual, as the result of a cost-share maxi-audit of a building.

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Subp. 7. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 8. **Hospital.** "Hospital" means a public or private nonprofit facility licensed under Minnesota Statutes 1986, section 144.50, subdivision 2~~,--that-is-primarily-engaged-in providing-by-or-under-the-supervision-of-physicians-to inpatients:~~

~~A,--diagnostic-services-and-therapeutic-services-for medical-diagnosis,-treatment,-and-care-of-injured,-disabled,-or sick-persons;-or~~

~~B,--rehabilitation-services-for-the-rehabilitation-of injured,-disabled,-or-sick-persons~~.

Subp. 9. **Nursing home.** "Nursing home" means a public or private nonprofit facility or that part of a facility licensed under Minnesota Statutes 1986, section 144A.01, subdivision 5, that provides nursing care to five or more persons.

Subp. 10. **Private nonprofit institution.** "Private nonprofit institution" means an institution owned and operated by a school, hospital, or nursing home as defined in this part that is also exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of ~~1954~~ 1986, or joint power of these.

Subp. 11. **Public institution.** "Public institution" means any public school district or hospital, statutory or home rule charter city, county, or town in Minnesota, or joint power of these.

Subp. 12. **School.** "School" means a public or private nonprofit institution that:

A. provides, and is legally authorized to provide, elementary education or secondary education or both on a day or residential basis;

B. (1) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(2) admits as students only persons having a certificate of graduation from a school providing secondary

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education, or the recognized equivalent of a certificate;

(3) is accredited by a nationally recognized accrediting agency or association; and

(4) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward such a degree at any institution that meets the preceding requirements and provides such a program; or

C. provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and meets the provisions in item B, subitems (1), (2), and (3).

7660.0030 ELIGIBILITY.

All public and private nonprofit institutions are eligible for cost-share maxi-audit grants for buildings that they own and operate. A building for which an institution has received cost-share maxi-audit funds is not eligible for another cost-share maxi-audit grant until five years after the date of the previous cost-share maxi-audit grant payment.

7660.0040 COST-SHARE MAXI-AUDITOR AUTHORIZATION.

An authorized cost-share maxi-auditor is a person who is a professional electrical or mechanical engineer or architect registered in Minnesota and who has:

A. agreed to abide by the requirements of this part when conducting cost-share maxi-audits;

B. agreed to attend mandatory cost-share maxi-audit information training sessions conducted by the department;

C. signed and submitted to the department, upon completion of the mandatory cost-share maxi-audit training, the authorization agreement for cost-share maxi-auditors that is provided in the manual, and is available upon request from the department; and

D. agreed to make appropriate changes and additions to a cost-share maxi-audit report within 30 days after being sent written notification from the department of the required

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changes and additions.

These requirements must be adhered to in order for a person to maintain authorized cost-share maxi-auditor status.

7660.0050 APPLICATION.

Subpart 1. **Process.** The public or private nonprofit institution must submit to the department an application for cost-share maxi-audit funds on a form provided by the department. This application must include the following:

A. the institution name and address;

B. the name and address of the building;

C. the area of the building in square feet;

D. the building audit status, previously maxi-audited or unaudited;

E. the date of the application; and

F. the contact person's name, title, and telephone number.

Subp. 2. **Application period.** The department will process applications in accordance with part 7660.0060, subpart 1, until all funds have been encumbered.

7660.0060 CONTRACT PROCESS.

Subpart 1. **Application review.** Upon receipt of an eligible application from an institution, the department will determine the funding limits for each building according to part 7660.0090, subpart 2, and will prepare a cost-share maxi-audit grant contract for each building.

Subp. 2. **General.** The department will send the prepared contract to the applicant for signatures by two of the applicant's officials authorized to sign contracts. Grant contracts must be signed and returned to the department within 45 days of the department's mailing date to the applicant. If the grant contract has not been returned within 45 days, the funds may be redistributed to other applicants. After complete execution of the grant contract by the state of Minnesota, the department will send to the institution a copy of the fully executed contract, required scope of work, and a list of

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authorized cost-share maxi-auditors.

7660.0070 COST-SHARE MAXI-AUDIT REPORT REVIEW.

The department will review cost-share maxi-audit reports to verify that all requirements of the manual have been fulfilled. If the department review identifies requirements that have not been fulfilled, the department will notify both the grantee and the authorized cost-share maxi-auditor of the necessary changes and additions. The department may conduct an on-site verification of the data contained in the report. When the report has been determined to fulfill all requirements, notice of acceptance will be sent to the grantee.

7660.0080 REIMBURSEMENT.

To be reimbursed for the funds approved in part 7660.0090, subpart 2, the following conditions must be met:

A. The institution must not have contracted for or begun work before the fully executed grant contract was received by the institution.

B. The cost-share maxi-audit must have been conducted by an authorized cost-share maxi-auditor.

C. The institution must have submitted to the department no later than 90 days before the expiration date of the contract, the following:

(1) one copy of the cost-share maxi-audit report signed by an authorized cost-share maxi-auditor for each building that was awarded a cost-share maxi-audit grant; and

(2) one copy of the invoice for the cost-share maxi-audit work, itemized by building.

D. The cost-share maxi-audit report must have met the requirements of the manual.

7660.0090 FUNDING.

Subpart 1. **Priorities.** The department will process grant applications that comply with parts 7660.0010 to 7660.0070 on a first-come first-served basis, based on the day an eligible and complete application is received by the department. If eligible

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and complete applications received on the same day cannot all be funded due to lack of available funds, the department will first process applications for previously unaudited buildings. If funds are not available for all eligible applications for previously unaudited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. If funds are available after processing all eligible applications for previously unaudited buildings, the department will process eligible grant applications for previously audited buildings. If funds are not available for all eligible applications for previously audited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. When all available funds have been encumbered, the department will not process any further applications and affected applicants will be notified.

Subp. 2. **Limits.** Grants will be issued by the department for eligible applications up to the funding limits, based on building size, as shown in the following table. The department will reimburse grantees for 50 percent of the actual cost of a cost-share maxi-audit or the approved grant amount, whichever is less, when the requirements of part 7660.0080 have been met.

Funding Limits for Cost-Share Maxi-Audits

Building Size in Square Feet	Formula	Funding Limits
0 - 5,000	--	$500
5,001 - 25,000	--	$1000
25,001 - 50,000	(Area)($.04/sq. ft.)	$1000 - $2000
50,001 - 100,000	(Area)($.024/sq. ft.) + $ 800	$2000 - $3200
100,001 - 150,000	(Area)($.016/sq. ft.) + $1600	$3200 - $4000
150,001 - 200,000	(Area)($.012/sq. ft.) + $2200	$4000 - $4600
200,001 - 250,000	(Area)($.008/sq. ft.) + $3000	$4600 - $5000
250,001 - and up	--	$5000

Subp. 3. **Restrictions.** Institutions awarded cost-share maxi-audit grants with money from the state's cost-share maxi-audit program cannot use funding from this program for the applicant's share of the cost of their cost-share maxi-audit.

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APR 15 1988

ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

AGENCY: Department of Public Service

MINNESOTA RULES: Chapter 7660

The attached rules are approved for
filing with the Secretary of State

David S. Niss
Assistant Revisor

Department of Public Service

Adopted Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

Rules as Adopted

7660.0010 PURPOSE.

Parts 7660.0010 to 7660.0090 establish the criteria and procedures for granting financial assistance to Minnesota public and private nonprofit institutions for conducting building energy audits using money allocated to the department from the state's allocation of petroleum violation escrow funds.

7660.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7660.0010 to 7660.0090, the following terms have the meanings given them.

Subp. 2. **Authorized cost-share maxi-auditor or auditor.** "Authorized cost-share maxi-auditor" or "auditor" is a person who has met the requirements of part 7660.0040.

Subp. 3. **Building.** "Building" means any existing, separate, enclosed, heated structure owned and operated by a public or private nonprofit institution as defined in this part.

Subp. 4. **Cost-share maxi-audit.** "Cost-share maxi-audit" means a detailed engineering analysis of a building and its energy using systems, including the plumbing, lighting, heating, ventilating, and air conditioning systems. The primary objective of a cost-share maxi-audit is to identify and quantify the economic and engineering feasibility of energy conservation measures for a building and its energy using systems.

Subp. 5. **Cost-share maxi-audit manual or manual.** "Cost-share maxi-audit manual" or "manual" means the manual incorporated by reference in part 7680.0200.

Subp. 6. **Cost-share maxi-audit report or report.** "Cost-share maxi-audit report" or "report" means a written document prepared according to the cost-share maxi-audit manual, as the result of a cost-share maxi-audit of a building.

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Subp. 7. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 8. **Hospital.** "Hospital" means a public or private nonprofit facility licensed under Minnesota Statutes 1986, section 144.50, subdivision 2~~,-that-is-primarily-engaged-in providing-by-or-under-the-supervision-of-physicians-to inpatients:~~

~~A,--diagnostic-services-and-therapeutic-services-for medical-diagnosis,-treatment,-and-care-of-injured,-disabled,-or sick-persons,-or~~

~~B,--rehabilitation-services-for-the-rehabilitation-of injured,-disabled,-or-sick-persons~~.

Subp. 9. **Nursing home.** "Nursing home" means a public or private nonprofit facility or that part of a facility licensed under Minnesota Statutes 1986, section 144A.01, subdivision 5, that provides nursing care to five or more persons.

Subp. 10. **Private nonprofit institution.** "Private nonprofit institution" means an institution owned and operated by a school, hospital, or nursing home as defined in this part that is also exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of ~~1954~~ 1986, or joint power of these.

Subp. 11. **Public institution.** "Public institution" means any public school district or hospital, statutory or home rule charter city, county, or town in Minnesota, or joint power of these.

Subp. 12. **School.** "School" means a public or private nonprofit institution that:

A. provides, and is legally authorized to provide, elementary education or secondary education or both on a day or residential basis;

B. (1) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(2) admits as students only persons having a certificate of graduation from a school providing secondary

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education, or the recognized equivalent of a certificate;

(3) is accredited by a nationally recognized accrediting agency or association; and

(4) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward such a degree at any institution that meets the preceding requirements and provides such a program; or

C. provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and meets the provisions in item B, subitems (1), (2), and (3).

7660.0030 ELIGIBILITY.

All public and private nonprofit institutions are eligible for cost-share maxi-audit grants for buildings that they own and operate. A building for which an institution has received cost-share maxi-audit funds is not eligible for another cost-share maxi-audit grant until five years after the date of the previous cost-share maxi-audit grant payment.

7660.0040 COST-SHARE MAXI-AUDITOR AUTHORIZATION.

An authorized cost-share maxi-auditor is a person who is a professional electrical or mechanical engineer or architect registered in Minnesota and who has:

A. agreed to abide by the requirements of this part when conducting cost-share maxi-audits;

B. agreed to attend mandatory cost-share maxi-audit information training sessions conducted by the department;

C. signed and submitted to the department, upon completion of the mandatory cost-share maxi-audit training, the authorization agreement for cost-share maxi-auditors that is provided in the manual, and is available upon request from the department; and

D. agreed to make appropriate changes and additions to a cost-share maxi-audit report within 30 days after being sent written notification from the department of the required

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changes and additions.

These requirements must be adhered to in order for a person to maintain authorized cost-share maxi-auditor status.

7660.0050 APPLICATION.

Subpart 1. **Process.** The public or private nonprofit institution must submit to the department an application for cost-share maxi-audit funds on a form provided by the department. This application must include the following:

A. the institution name and address;

B. the name and address of the building;

C. the area of the building in square feet;

D. the building audit status, previously maxi-audited or unaudited;

E. the date of the application; and

F. the contact person's name, title, and telephone number.

Subp. 2. **Application period.** The department will process applications in accordance with part 7660.0060, subpart 1, until all funds have been encumbered.

7660.0060 CONTRACT PROCESS.

Subpart 1. **Application review.** Upon receipt of an eligible application from an institution, the department will determine the funding limits for each building according to part 7660.0090, subpart 2, and will prepare a cost-share maxi-audit grant contract for each building.

Subp. 2. **General.** The department will send the prepared contract to the applicant for signatures by two of the applicant's officials authorized to sign contracts. Grant contracts must be signed and returned to the department within 45 days of the department's mailing date to the applicant. If the grant contract has not been returned within 45 days, the funds may be redistributed to other applicants. After complete execution of the grant contract by the state of Minnesota, the department will send to the institution a copy of the fully executed contract, required scope of work, and a list of

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authorized cost-share maxi-auditors.

7660.0070 COST-SHARE MAXI-AUDIT REPORT REVIEW.

The department will review cost-share maxi-audit reports to verify that all requirements of the manual have been fulfilled. If the department review identifies requirements that have not been fulfilled, the department will notify both the grantee and the authorized cost-share maxi-auditor of the necessary changes and additions. The department may conduct an on-site verification of the data contained in the report. When the report has been determined to fulfill all requirements, notice of acceptance will be sent to the grantee.

7660.0080 REIMBURSEMENT.

To be reimbursed for the funds approved in part 7660.0090, subpart 2, the following conditions must be met:

A. The institution must not have contracted for or begun work before the fully executed grant contract was received by the institution.

B. The cost-share maxi-audit must have been conducted by an authorized cost-share maxi-auditor.

C. The institution must have submitted to the department no later than 90 days before the expiration date of the contract, the following:

(1) one copy of the cost-share maxi-audit report signed by an authorized cost-share maxi-auditor for each building that was awarded a cost-share maxi-audit grant; and

(2) one copy of the invoice for the cost-share maxi-audit work, itemized by building.

D. The cost-share maxi-audit report must have met the requirements of the manual.

7660.0090 FUNDING.

Subpart 1. **Priorities.** The department will process grant applications that comply with parts 7660.0010 to 7660.0070 on a first-come first-served basis, based on the day an eligible and complete application is received by the department. If eligible

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and complete applications received on the same day cannot all be funded due to lack of available funds, the department will first process applications for previously unaudited buildings. If funds are not available for all eligible applications for previously unaudited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. If funds are available after processing all eligible applications for previously unaudited buildings, the department will process eligible grant applications for previously audited buildings. If funds are not available for all eligible applications for previously audited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. When all available funds have been encumbered, the department will not process any further applications and affected applicants will be notified.

Subp. 2. **Limits.** Grants will be issued by the department for eligible applications up to the funding limits, based on building size, as shown in the following table. The department will reimburse grantees for 50 percent of the actual cost of a cost-share maxi-audit or the approved grant amount, whichever is less, when the requirements of part 7660.0080 have been met.

Funding Limits for Cost-Share Maxi-Audits

Building Size in Square Feet	Formula	Funding Limits
0 - 5,000	--	$500
5,001 - 25,000	--	$1000
25,001 - 50,000	(Area)($.04/sq. ft.)	$1000 - $2000
50,001 - 100,000	(Area)($.024/sq. ft.) + $ 800	$2000 - $3200
100,001 - 150,000	(Area)($.016/sq. ft.) + $1600	$3200 - $4000
150,001 - 200,000	(Area)($.012/sq. ft.) + $2200	$4000 - $4600
200,001 - 250,000	(Area)($.008/sq. ft.) + $3000	$4600 - $5000
250,001 - and up	--	$5000

Subp. 3. **Restrictions.** Institutions awarded cost-share maxi-audit grants with money from the state's cost-share maxi-audit program cannot use funding from this program for the applicant's share of the cost of their cost-share maxi-audit.

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ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

Department of Public Service

Proposed Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

Rules as Proposed (all new material)

7660.0010 PURPOSE.

Parts 7660.0010 to 7660.0090 establish the criteria and procedures for granting financial assistance to Minnesota public and private nonprofit institutions for conducting building energy audits using money allocated to the department from the state's allocation of petroleum violation escrow funds.

7660.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7660.0010 to 7660.0090, the following terms have the meanings given them.

Subp. 2. **Authorized cost-share maxi-auditor or auditor.** "Authorized cost-share maxi-auditor" or "auditor" is a person who has met the requirements of part 7660.0040.

Subp. 3. **Building.** "Building" means any existing, separate, enclosed, heated structure owned and operated by a public or private nonprofit institution as defined in this part.

Subp. 4. **Cost-share maxi-audit.** "Cost-share maxi-audit" means a detailed engineering analysis of a building and its energy using systems, including the plumbing, lighting, heating, ventilating, and air conditioning systems. The primary objective of a cost-share maxi-audit is to identify and quantify the economic and engineering feasibility of energy conservation measures for a building and its energy using systems.

Subp. 5. **Cost-share maxi-audit manual or manual.** "Cost-share maxi-audit manual" or "manual" means the manual incorporated by reference in part 7680.0200.

Subp. 6. **Cost-share maxi-audit report or report.** "Cost-share maxi-audit report" or "report" means a written document prepared according to the cost-share maxi-audit manual, as the result of a cost-share maxi-audit of a building.

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Subp. 7. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 8. **Hospital.** "Hospital" means a public or private nonprofit facility licensed under Minnesota Statutes 1986, section 144.50, subdivision 2, that is primarily engaged in providing by or under the supervision of physicians to inpatients:

A. diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or

B. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

Subp. 9. **Nursing home.** "Nursing home" means a public or private nonprofit facility or that part of a facility licensed under Minnesota Statutes 1986, section 144A.01, subdivision 5, that provides nursing care to five or more persons.

Subp. 10. **Private nonprofit institution.** "Private nonprofit institution" means an institution owned and operated by a school, hospital, or nursing home as defined in this part that is also exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954, or joint power of these.

Subp. 11. **Public institution.** "Public institution" means any public school district or hospital, statutory or home rule charter city, county, or town in Minnesota, or joint power of these.

Subp. 12. **School.** "School" means a public or private nonprofit institution that:

A. provides, and is legally authorized to provide, elementary education or secondary education or both on a day or residential basis;

B. (1) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(2) admits as students only persons having a certificate of graduation from a school providing secondary

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education, or the recognized equivalent of a certificate;

(3) is accredited by a nationally recognized accrediting agency or association; and

(4) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward such a degree at any institution that meets the preceding requirements and provides such a program; or

C. provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and meets the provisions in item B, subitems (1), (2), and (3).

7660.0030 ELIGIBILITY.

All public and private nonprofit institutions are eligible for cost-share maxi-audit grants for buildings that they own and operate. A building for which an institution has received cost-share maxi-audit funds is not eligible for another cost-share maxi-audit grant until five years after the date of the previous cost-share maxi-audit grant payment.

7660.0040 COST-SHARE MAXI-AUDITOR AUTHORIZATION.

An authorized cost-share maxi-auditor is a person who is a professional electrical or mechanical engineer or architect registered in Minnesota and who has:

A. agreed to abide by the requirements of this part when conducting cost-share maxi-audits;

B. agreed to attend mandatory cost-share maxi-audit information training sessions conducted by the department;

C. signed and submitted to the department, upon completion of the mandatory cost-share maxi-audit training, the authorization agreement for cost-share maxi-auditors that is provided in the manual, and is available upon request from the department; and

D. agreed to make appropriate changes and additions to a cost-share maxi-audit report within 30 days after being sent written notification from the department of the required

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changes and additions.

These requirements must be adhered to in order for a person to maintain authorized cost-share maxi-auditor status.

7660.0050 APPLICATION.

Subpart 1. **Process.** The public or private nonprofit institution must submit to the department an application for cost-share maxi-audit funds on a form provided by the department. This application must include the following:

A. the institution name and address;

B. the name and address of the building;

C. the area of the building in square feet;

D. the building audit status, previously maxi-audited or unaudited;

E. the date of the application; and

F. the contact person's name, title, and telephone number.

Subp. 2. **Application period.** The department will process applications in accordance with part 7660.0060, subpart 1, until all funds have been encumbered.

7660.0060 CONTRACT PROCESS.

Subpart 1. **Application review.** Upon receipt of an eligible application from an institution, the department will determine the funding limits for each building according to part 7660.0090, subpart 2, and will prepare a cost-share maxi-audit grant contract for each building.

Subp. 2. **General.** The department will send the prepared contract to the applicant for signatures by two of the applicant's officials authorized to sign contracts. Grant contracts must be signed and returned to the department within 45 days of the department's mailing date to the applicant. If the grant contract has not been returned within 45 days, the funds may be redistributed to other applicants. After complete execution of the grant contract by the state of Minnesota, the department will send to the institution a copy of the fully executed contract, required scope of work, and a list of

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authorized cost-share maxi-auditors.

7660.0070 COST-SHARE MAXI-AUDIT REPORT REVIEW.

The department will review cost-share maxi-audit reports to verify that all requirements of the manual have been fulfilled. If the department review identifies requirements that have not been fulfilled, the department will notify both the grantee and the authorized cost-share maxi-auditor of the necessary changes and additions. The department may conduct an on-site verification of the data contained in the report. When the report has been determined to fulfill all requirements, notice of acceptance will be sent to the grantee.

7660.0080 REIMBURSEMENT.

To be reimbursed for the funds approved in part 7660.0090, subpart 2, the following conditions must be met:

A. The institution must not have contracted for or begun work before the fully executed grant contract was received by the institution.

B. The cost-share maxi-audit must have been conducted by an authorized cost-share maxi-auditor.

C. The institution must have submitted to the department no later than 90 days before the expiration date of the contract, the following:

(1) one copy of the cost-share maxi-audit report signed by an authorized cost-share maxi-auditor for each building that was awarded a cost-share maxi-audit grant; and

(2) one copy of the invoice for the cost-share maxi-audit work, itemized by building.

D. The cost-share maxi-audit report must have met the requirements of the manual.

7660.0090 FUNDING.

Subpart 1. **Priorities.** The department will process grant applications that comply with parts 7660.0010 to 7660.0070 on a first-come first-served basis, based on the day an eligible and complete application is received by the department. If eligible

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and complete applications received on the same day cannot all be funded due to lack of available funds, the department will first process applications for previously unaudited buildings. If funds are not available for all eligible applications for previously unaudited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. If funds are available after processing all eligible applications for previously unaudited buildings, the department will process eligible grant applications for previously audited buildings. If funds are not available for all eligible applications for previously audited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. When all available funds have been encumbered, the department will not process any further applications and affected applicants will be notified.

Subp. 2. **Limits.** Grants will be issued by the department for eligible applications up to the funding limits, based on building size, as shown in the following table. The department will reimburse grantees for 50 percent of the actual cost of a cost-share maxi-audit or the approved grant amount, whichever is less, when the requirements of part 7660.0080 have been met.

Funding Limits for Cost-Share Maxi-Audits

Building Size in Square Feet	Formula	Funding Limits
0 - 5,000	--	$500
5,001 - 25,000	--	$1000
25,001 - 50,000	(Area)($.04/sq. ft.)	$1000 - $2000
50,001 - 100,000	(Area)($.024/sq. ft.) + $ 800	$2000 - $3200
100,001 - 150,000	(Area)($.016/sq. ft.) + $1600	$3200 - $4000
150,001 - 200,000	(Area)($.012/sq. ft.) + $2200	$4000 - $4600
200,001 - 250,000	(Area)($.008/sq. ft.) + $3000	$4600 - $5000
250,001 - and up	--	$5000

Subp. 3. **Restrictions.** Institutions awarded cost-share maxi-audit grants with money from the state's cost-share maxi-audit program cannot use funding from this program for the applicant's share of the cost of their cost-share maxi-audit.

Approved by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

AGENCY: Department of Public Service

MINNESOTA RULES: Chapter 7660

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

DEPARTMENT OF PUBLIC SERVICE

ENERGY DIVISION

In the Matter of the Proposed Adoption of the Rule of the State Department of Public Service Governing Cost-Share Maxi-Audit Grants for public and private non-profit institutions.	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Public Service intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is contained in Minnesota Statutes section 216C.02, Subdivision 3.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number

withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Mary Pat Haney
Department of Public Service
Energy Division
900 American Center
150 E. Kellogg Boulevard
St. Paul, MN 55101
Telephone: (612) 297-2103

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Ms. Haney upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Ms. Haney at the address given above.

Dated: January 21, 1988

Tony Perpich, Commissioner
Department of Public Service

RECEIVED
APR 15 1980
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

In the Matter of the Proposed Adoption of the Rule of the State Department of Public Service Governing Cost-Share Maxi-Audit Grants

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Norma Riley, being sworn says:

That on the 8th day of February, 1988 at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the Department of Public Service rulemaking list kept by the Department pursuant to Minnesota Statutes, section 14.14, subdivision 1a and 14.22 or 14.30.

Norma Riley
Secretary, Office of
Municipal Energy Finance

Subscribed and sworn to before me
this 28th day of March, 1988

Madeline Harris, Notary Public



RECEIVED
APR 15 1980
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

A. to C. [Unchanged.]

D. The nursing home must provide each nursing home resident or the resident's authorized representative with a copy of the assessment form and any other documentation provided to the Department of Health in support of the assessment within ~~one~~ three working ~~day~~ days of receipt of a written ~~or verbal~~ request from the resident or the resident's authorized representative.

9549.0060 DETERMINATION OF THE PROPERTY-RELATED PAYMENT RATE.

Subpart 1. to 8. [Unchanged.]

Subp. 9. **Building capital allowance for nursing homes with operating leases.** Except as provided in subpart 14, for rate years beginning after June 30, 1985, the building capital allowance for nursing homes with operating lease costs incurred for buildings must be paid as determined by items A to C.

A. to D. [Unchanged.]

E. The phrase "operating lease" does not include a nominal lease. For purposes of this subpart, a lease that meets the following conditions is considered a nominal lease:

(1) the annual lease payment in comparison to the rental value of the physical plant and depreciable equipment is a nominal amount, usually $1 per year;

(2) the length of the lease, including renewal provisions, reflects the intent of the lessor and lessee to lease the physical plant and depreciable equipment for the remainder of their useful lives;

(3) the lease agreement imposes a duty upon the lessee to make necessary improvements and to properly maintain the nursing home;

(4) the lease agreement has no restrictions on the free use of the nursing home by the lessee other than it must be used as a licensed nursing home; and

(5) the lease agreement must not require the furnishing of any indirect benefits to the lessor.

A nursing home leased with a nominal lease shall have its building capital allowance computed as in subpart 8. This item is effective for rate years beginning on or after July 1, 1988.

Subp. 10. to 14. [Unchanged.]

Department of Public Service

Proposed Permanent Rules Relating to Cost-Share Maxi-Audit Grants for Public and Private Nonprofit Institutions

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Department of Public Service intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is contained in *Minnesota Statutes* section 216C.02, Subdivision 3.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any changes proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Comments or written requests for a public hearing must be submitted to:

Mary Pat Haney
Department of Public Service
Energy Division
900 American Center
150 E. Kellogg Boulevard
St. Paul, MN 55101
Telephone: (612) 297-2103

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Ms. Haney upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Ms. Haney at the address given above.

Dated: 21 January 1988

Tony Perpich, Commissioner
Department of Public Service

Rules as Proposed (all new material)

7660.0010 PURPOSE.

Parts 7660.0010 to 7660.0090 establish the criteria and procedures for granting financial assistance to Minnesota public and private nonprofit institutions for conducting building energy audits using money allocated to the department from the state's allocation of petroleum violation escrow funds.

7660.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7660.0010 to 7660.0090, the following terms have the meanings given them.

Subp. 2. **Authorized cost-share maxi-auditor or auditor.** "Authorized cost-share maxi-auditor" or "auditor" is a person who has met the requirements of part 7660.0040.

Subp. 3. **Building.** "Building" means any existing, separate, enclosed, heated structure owned and operated by a public or private nonprofit institution as defined in this part.

Subp. 4. **Cost-share maxi-audit.** "Cost-share maxi-audit" means a detailed engineering analysis of a building and its energy using systems, including the plumbing, lighting, heating, ventilating, and air conditioning systems. The primary objective of a cost-share maxi-audit is to identify and quantify the economic and engineering feasibility of energy conservation measures for a building and its energy using systems.

Subp. 5. **Cost-share maxi-audit manual or manual.** "Cost-share maxi-audit manual" or "manual" means the manual incorporated by reference in part 7680.0200.

Subp. 6. **Cost-share maxi-audit report or report.** "Cost-share maxi-audit report" or "report" means a written document prepared according to the cost-share maxi-audit manual, as the result of a cost-share maxi-audit of a building.

Subp. 7. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 8. **Hospital.** "Hospital" means a public or private nonprofit facility licensed under Minnesota Statutes 1986, section 144.50, subdivision 2, that is primarily engaged in providing by or under the supervision of physicians to inpatients:

A. diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or

B. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

Subp. 9. **Nursing home.** "Nursing home" means a public or private nonprofit facility or that part of a facility licensed under Minnesota Statutes 1986, section 144A.01, subdivision 5, that provides nursing care to five or more persons.

Subp. 10. **Private nonprofit institution.** "Private nonprofit institution" means an institution owned and operated by a school, hospital, or nursing home as defined in this part that is also exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954, or joint power of these.

Subp. 11. **Public institution.** "Public institution" means any public school district or hospital, statutory or home rule charter city, county, or town in Minnesota, or joint power of these.

Subp. 12. **School.** "School" means a public or private nonprofit institution that:

A. provides, and is legally authorized to provide, elementary education or secondary education or both on a day or residential basis;

B. (1) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(2) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of a certificate;

(3) is accredited by a nationally recognized accrediting agency or association; and

(4) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward such a degree at any institution that meets the preceding requirements and provides such a program; or

C. provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and meets the provisions in item B, subitems (1), (2), and (3).

7660.0030 ELIGIBILITY.

All public and private nonprofit institutions are eligible for cost-share maxi-audit grants for buildings that they own and operate. A building for which an institution has received cost-share maxi-audit funds is not eligible for another cost-share maxi-audit grant until five years after the date of the previous cost-share maxi-audit grant payment.

7660.0040 COST-SHARE MAXI-AUDITOR AUTHORIZATION.

An authorized cost-share maxi-auditor is a person who is a professional electrical or mechanical engineer or architect registered in Minnesota and who has:

A. agreed to abide by the requirements of this part when conducting cost-share maxi-audits;

B. agreed to attend mandatory cost-share maxi-audit information training sessions conducted by the department;

C. signed and submitted to the department, upon completion of the mandatory cost-share maxi-audit training, the authorization agreement for cost-share maxi-auditors that is provided in the manual, and is available upon request from the department; and

D. agreed to make appropriate changes and additions to a cost-share maxi-audit report within 30 days after being sent written notification from the department of the required changes and additions.

These requirements must be adhered to in order for a person to maintain authorized cost-share maxi-auditor status.

7660.0050 APPLICATION.

Subpart 1. **Process.** The public or private nonprofit institution must submit to the department an application for cost-share maxi-audit funds on a form provided by the department. This application must include the following:

A. the institution name and address;

B. the name and address of the building;

C. the area of the building in square feet;

D. the building audit status, previously maxi-audited or unaudited;

E. the date of the application; and

F. the contact person's name, title, and telephone number.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Subp. 2. **Application period.** The department will process applications in accordance with part 7660.0060, subpart 1, until all funds have been encumbered.

7660.0060 CONTRACT PROCESS.

Subpart 1. **Application review.** Upon receipt of an eligible application from an institution, the department will determine the funding limits for each building according to part 7660.0090, subpart 2, and will prepare a cost-share maxi-audit grant contract for each building.

Subp. 2. **General.** The department will send the prepared contract to the applicant for signatures by two of the applicant's officials authorized to sign contracts. Grant contracts must be signed and returned to the department within 45 days of the department's mailing date to the applicant. If the grant contract has not been returned within 45 days, the funds may be redistributed to other applicants. After complete execution of the grant contract by the state of Minnesota, the department will send to the institution a copy of the fully executed contract, required scope of work, and a list of authorized cost-share maxi-auditors.

7660.0070 COST-SHARE MAXI-AUDIT REPORT REVIEW.

The department will review cost-share maxi-audit reports to verify that all requirements of the manual have been fulfilled. If the department review identifies requirements that have not been fulfilled, the department will notify both the grantee and the authorized cost-share maxi-auditor of the necessary changes and additions. The department may conduct an on-site verification of the data contained in the report. When the report has been determined to fulfill all requirements, notice of acceptance will be sent to the grantee.

7660.0080 REIMBURSEMENT.

To be reimbursed for the funds approved in part 7660.0090, subpart 2, the following conditions must be met:

A. The institution must not have contracted for or begun work before the fully executed grant contract was received by the institution.

B. The cost-share maxi-audit must have been conducted by an authorized cost-share maxi-auditor.

C. The institution must have submitted to the department no later than 90 days before the expiration date of the contract, the following:

(1) one copy of the cost-share maxi-audit report signed by an authorized cost-share maxi-auditor for each building that was awarded a cost-share maxi-audit grant; and

(2) one copy of the invoice for the cost-share maxi-audit work, itemized by building.

D. The cost-share maxi-audit report must have met the requirements of the manual.

7660.0090 FUNDING.

Subpart 1. **Priorities.** The department will process grant applications that comply with parts 7660.0010 to 7660.0070 on a first-come first-served basis, based on the day an eligible and complete application is received by the department. If eligible and complete applications received on the same day cannot all be funded due to lack of available funds, the department will first process applications for previously unaudited buildings. If funds are not available for all eligible applications for previously unaudited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. If funds are available after processing all eligible applications for previously unaudited buildings, the department will process eligible grant applications for previously audited buildings. If funds are not available for all eligible applications for previously audited buildings, the department will process grants so that each affected application receives an equal percentage of the eligible grant amount. When all available funds have been encumbered, the department will not process any further applications and affected applicants will be notified.

Subp. 2. **Limits.** Grants will be issued by the department for eligible applications up to the funding limits, based on building size, as shown in the following table. The department will reimburse grantees for 50 percent of the actual cost of a cost-share maxi-audit or the approved grant amount, whichever is less, when the requirements of part 7660.0080 have been met.

Funding Limits for Cost-Share Maxi-Audits

Building Size in Square Feet	Formula	Funding Limits
0 - 5,000	—	$500
5,001 - 25,000	—	$1000
25,001 - 50,000	(Area)($.04/sq. ft.)	$1000 - $2000
50,001 - 100,000	(Area)($.024/sq. ft.) + $ 800	$2000 - $3200

RECEIVED
APR 15 1983
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Adoption of the Rule of the State Department of Public Service Governing Cost-Share Maxi-Audit Grants

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on February 18, 1988 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on February 8, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency.

No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the evidence in the record before the agency, I find the following:

1. As discussed in the statement of need and reasonableness for the proposed rule, the definition at 7660.0020, subdivision 8 was broadened by deletion of restrictive language to match the definition of licensed hospitals as found at Minnesota Statutes Chapter 114.50. This does not constitute a substantive change under Minnesota Rules 2010.1000, Item D. Therefore, the department modifies the proposed rule as follows:

   7660.0020 DEFINITIONS

   Subp. 8 Hospital. "Hospital" means a public or private non profit facility licensed under Minnesota Statutes 1986, section 144.50, subdivision 2, ~~that is primarily engaged in providing by or under the supervision of physicians to inpatients:~~

   ~~A. diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or~~
   ~~B. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.~~

2. An error was made in the proposed rule at 7660.0020, subdivision 10. The Internal Revenue Code cited has been updated and the date, therefore, needs to be changed from 1954 to 1986. This does not constitute a substantive change under Minnesota Rules 2010.1000 Item D. Therefore, the department modified the proposed rules as follows:

7660.0020 DEFINITIONS

Subp. 10 Private nonprofit institutions. . . . .
501(c)(4) of the internal Revenue Code of ~~1954~~ 1986. . . . .

NOW, THEREFORE, IT IS ORDERED that the rule identified as Minnesota Rules 7660.0010 to 7660.0090 as modified is adopted this twenty-fifth_day of March, 1988 pursuant to the authority vested in me by Minnesota Statutes, section 216.02, subdivision 3.

Tony Perpich, Commissioner
Of Public Service

In the Matter of the Adoption of
the Rules of the Department of
Public Service Governing Cost-Share
Maxi-Audit Grants for Public and
Private Non-Profit Institutions
Minn. Rules pt. 7660.0010 - 7660.0090

DECLARATION OF COUNSEL

I, Audrey A. Zibelman, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that based on my examination, the Administrative Procedure Act and Minnesota Rules Chapter 2010, have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0731.

Dated: April 14, 1988

Audrey Zibelman

AUDREY ZIBELMAN
Special Assistant
Attorney General

In the Matter of the Proposed Adoption of the Rule of the State Department of Public Service Governing Cost-Share Maxi-Audit Grants

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Dennis Devereaux, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state Department of Public Service rulemaking list is accurate, complete, and current as of the 8th day of February 1988.

Dennis M. Devereaux

Special Assistant to
the Commissioner

Subscribed and sworn to before me
this 28 day of March, 1988

Madeline Harris, Notary Public

MADELINE HARRIS
NOTARY PUBLIC — MINNESOTA
CHISAGO COUNTY
My commission expires 8-17-91