



ADMINISTRATIVE RULES OF MONTANA



36.23.115 FINANCIAL AND OTHER REQUIREMENTS FOR LOANS TO PRIVATE PERSONS

- (1) It is anticipated that private persons or entities eligible for financing under the program may differ substantially in organizational structure, capitalization, creditworthiness, type and availability of security or collateral for the loan, and the numbers of users of the system. The department has determined it is not feasible to establish by rule specific underwriting criteria applicable to each type of loan to a private party. In general, for a loan to a private person or entity, the department shall determine, based on representations of the borrower and other information available to it, that adequate revenues exist, or are reasonably expected to be produced, to pay the principal of and interest on the loan when due, and that the borrower will provide, or cause to be provided, to the department security or other collateral providing reasonable assurance of payment in the event of a default.
- (2) The department is authorized to request and review any financial information of the borrower or third parties who may provide collateral or additional security that the department may deem necessary and appropriate to make the determination required under (1) .
- (3) The department may require such security or collateral for a loan to a private person or entity as it may determine necessary and appropriate in the circumstances, taking into account, among other things, the nature of the borrower, the principal amount of the loan and the project being financed, including, but not limited to:
 - (a) a mortgage on the facilities being financed;
 - (b) a mortgage on other property of the borrower or a third party;
 - (c) an assignment of revenues or accounts receivable;
 - (d) personal, corporate or other guarantees;
 - (e) letters or lines of credit;
 - (f) certificates of deposit; and
 - (g) assignments or pledges of stock or other securities.
- (4) The department may as a condition of the loan impose financial covenants on the borrower, including, for example, a limit on the ability of the borrower to incur additional indebtedness, and any covenants necessary to obtain, if feasible, or maintain the tax exempt status of the state bonds sold to finance the loan.

Implementing statute(s): 75-6-222, MCA

History: NEW, 1998 MAR p. 1412, Eff. 5/29/98.