36.24.109 REQUIREMENTS FOR DISBURSING OF LOAN

(1) Loans will be disbursed by warrants drawn by the department of administration or wire transfers authorized by the state treasurer or the department in accordance with the provisions of this rule, and the indenture of trust. No disbursement of any loan shall be made unless the department has received from the borrower, the following:

(a) a duly adopted and executed bond resolution from a municipality or loan agreement from a private person in a form acceptable to the department;

(b) a duly executed bond or note in a principal amount equal to the amount of the loan in a form acceptable to the department;

(c) a certificate of an official of the borrower that there is no litigation threatened or pending challenging the borrower's authority to undertake the project, to incur the loan, issue the bonds or enter into the loan agreement, collect the system charges in a form acceptable to the department or pledge its revenues or assets to the repayment of the loan or bonds;

(d) an opinion of bond counsel acceptable to the department that the bond is a valid and binding obligation of the municipality payable in accordance with its terms and that the interest in a form acceptable to the department thereon is exempt from state and federal income taxation in a form acceptable to the department, and, with respect to a loan to a private person, such legal opinions as the department deems necessary or appropriate, including that the note and loan agreement are the valid and bonding obligations of the private person payable in accordance with their terms and that the making of the loan will not cause any bonds issued as tax-exempt bonds by the state to finance the program to become taxable;

(e) such other closing certificates or documents that the department or bond counsel may require to satisfy requirements of these rules;

(f) if all or part of a loan is being made to refinance a project or reimburse the borrower for the costs of a project paid prior to the closing, evidence, satisfactory to the department and the bond counsel;

(i) that the acquisition or construction of the project was begun no earlier than March 7, 1985;

(ii) of the borrower's title to the project;

(iii) of the costs of such project and that such costs have been paid by the borrower; and

(iv) if such costs were paid in a previous fiscal year of the borrower, that the borrower intended at the time it incurred such costs to finance them with tax-exempt debt or a loan under a state revolving fund program such as the program;

(g) any certificate of insurance as evidencing insurance coverage as required by these rules and the bond resolution;

(h) a certified copy of the rate and charge ordinance, if applicable, and if subject to approval by another entity, evidence that such approval has been obtained;

(i) all permits or licenses that may be required by the state, any of its agencies and political subdivisions with respect to the project;

(j) executed copy of the construction contract accompanied by the appropriate performance and payment bonds;

(k) any additional documents required by the department or department of environmental quality as a condition to the approval of the loan described in the bond purchase agreement;

(l) a written order signed by a department of environmental quality representative authorizing a disbursement;

(m) a copy of the borrower's request for such disbursement on the form prescribed by the department; and

(n) payment of the administrative fee and origination fee, unless excepted from these requirements by the department.

Authorizing statute(s): 75-5-1105, MCA

Implementing statute(s): 75-5-1113, MCA

History: NEW, 1991 MAR p. 1952, Eff. 10/18/91; AMD, 1995 MAR p. 2423, Eff. 11/10/95; AMD, 2002 MAR p. 2213, Eff. 8/16/02; AMD, 2004 MAR p. 2291, Eff. 9/24/04.