

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Hospital Capital Investments
- 2) Code Citation: 77 Ill. Adm. Code 976
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
976.10	New
976.20	New
976.30	New
976.40	New
976.50	New
976.60	New
976.70	New
976.80	New
976.90	New
976.100	New
976.110	New
976.120	New
976.130	New
976.140	New
976.150	New
976.160	New
976.170	New
976.180	New
976.190	New
- 4) Statutory Authority: Section 2310-640 of the Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-640]
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 96-37 mandates that the Illinois Department of Public Health establish and administer a program to award capital grants to hospitals. The grants are to be used to fund capital projects to improve or renovate the hospital's facility, or to improve, replace or acquire equipment or technology. These projects may include, but are not limited to, projects to satisfy any building code, safety standard, or life safety code; projects to maintain, improve, renovate, expand, or construct buildings or structures; projects to maintain, establish, or improve health information technology; or projects to maintain or improve patient safety, quality of care, or access to care. This rulemaking will establish definitions; referenced materials, application standards, requirements for the distribution and obligation of grant

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

funds, accounting standards for the use of funds, reporting requirements on the status of projects and standards for monitoring compliance.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson Street, 5th Floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals
 - B) Reporting, bookkeeping or other procedures required for compliance: Requirements for grant applications, progress reports, and project completion are set forth in the rulemaking.
 - C) Types of professional skills necessary for compliance: Skills necessary to complete the grant application and monitor compliance with the requirements of this Part (e.g., accounting)
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the need for the rulemaking was not apparent when the regulatory agendas were prepared.

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 976

HOSPITAL CAPITAL INVESTMENTS

SUBPART A: GENERAL PROVISIONS

Section	
976.10	Definitions
976.20	Referenced Materials
976.30	Administrative Hearings
976.40	Freedom of Information

SUBPART B: SAFETY NET HOSPITAL GRANTS
AND COMMUNITY HOSPITAL GRANTS

Section	
976.50	Grant Descriptions
976.60	Grant Eligibility
976.70	Grant Application Requirements
976.80	Grant Application Review Criteria
976.90	Notice of Grant Opportunity
976.100	Letter of Intent
976.110	Grant Application Processing
976.120	Grant Awards
976.130	Grant Funds Distribution
976.140	Grant Funds Recovery
976.150	Grant Validity
976.160	Obligation
976.170	Alteration
976.180	Progress Reports
976.190	Project Completion

AUTHORITY: Implementing and authorized by Section 2310-640 of the Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-640].

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

SUBPART A: GENERAL PROVISIONS

Section 976.10 Definitions

"Act" means Section 2310-640 of the Department of Public Health Powers and Duties Law.

"Ambulatory Surgical Treatment Center" means any institution, place or building licensed pursuant to the Ambulatory Surgical Treatment Center Act.

"Architectural and Engineering Costs" means the costs associated with the development and implementation of drawings and design materials for a project.

"Authorized Beds" means the number of beds recognized at a hospital as reflected in the Inventory of Health Care Facilities and Services and Need Determinations from the Health Facilities and Services Review Board (see 77 Ill. Adm. Code 1100.220).

"Calendar Day" means all days in a month or prescribed time frame, including weekends and holidays.

"Capital Expenditure" means an expenditure that creates a future benefit. A capital expenditure occurs when an entity acquires an asset or adds to the value of an existing asset with a useful life that is beyond one year. Under generally accepted accounting principles, capital expenditures are costs that cannot be deducted in the year in which the asset was acquired. If the asset has a useful life longer than one year, the capital expenditure cost is depreciated over the life of the asset.

"Capital Lease" means a lease that is recognized as an asset and liability. Under generally accepted accounting principles, this applies to leases through which the entity acquires all of the economic benefits and risks of the leased asset.

"Cash and Equivalents" means the most liquid assets in the balance sheet. Equivalents are securities with maturities of less than three months and can be sold with little or no loss of value.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

"Case Mix Index" for a hospital shall mean either the case mix index used in Section 5A-12.2(n) of the Illinois Public Aid Code or the case mix index used under the federal Medicare program as specified in the Final Rule entitled, "Medicare Program: Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates" published in the Federal Register on August 19, 2008, whichever is greater.

"Category of Service" shall have the meaning ascribed in the Health Facilities and Services Review Board's rules (see 77 Ill. Adm. Code 1100.220).

"Certificate of Exemption" or "COE" is an exemption issued by the Health Facilities and Services Review Board for construction or modification of a health care facility.

"Certificate of Need" or "CON" is a permit issued by the Health Facilities and Services Review Board for construction or modification of a health care facility.

"Change of Ownership" shall have the meaning ascribed in the Health Facilities and Services Review Board's rules (see 77 Ill. Adm. Code 1130.140).

"Changes the Bed Capacity of Health Care Facility" means *increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 20 beds or more than 10% of total bed capacity, whichever is less.* (Section 5(c) of the Illinois Health Facilities Planning Act)

"Children's Hospital" means a hospital that is devoted exclusively to care for children (see 89 Ill. Adm. Code 149.50(c)(3)(A)).

"Clinical Service Area" shall have the meaning ascribed in the Health Facilities and Services Review Board's rules (see 77 Ill. Adm. Code 1130.140).

"Construction" or "Modernization" means the establishment, building, alteration, reconstruction, modernization, or improvement of a hospital.

"Construction Costs" or "Modernization Costs" means expenses from a construction contract.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

"Contingencies" means an allowance for unforeseeable events relating to the construction or modernization component of a project.

"Control" shall have the meaning ascribed in the Health Facilities and Services Review Board's rules (see 77 Ill. Adm. Code 1130.140).

"Debt Financing" means all or a portion of a project's costs financed through borrowing. For purposes of this Part, leasing is considered borrowing.

"Department" means the Department of Public Health. (Section 2310-5 of the Department of Public Health Powers and Duties Law)

"Depreciation" means the reduction in the balance sheet value of an asset to reflect its loss of value through age and use.

"Depreciation Schedule" means the annual apportionment of the depreciable cost of an asset to future accounting periods.

"Discontinue" shall have the meaning ascribed in the Health Facilities and Services Review Board's rules (see 77 Ill. Adm. Code 1130.140).

"Director" means the Director of Public Health. (Section 2310-5 of the Department of Public Health Powers and Duties Law)

"Due Diligence" means to take action toward the completion of a project with the diligence and foresight that persons of ordinary prudence and care would exercise under similar circumstances.

"Establish" or "Establishment" shall have the meaning ascribed in the Health Facilities and Services Review Board's rules (see 77 Ill. Adm. Code 1130.140).

"Estimated Total Project Cost" means all of the capital expenditures required to complete a project.

"Equipment Cost" means the cost of movable equipment, including movable medical equipment, and the cost of making this equipment operational (e.g., installation costs).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

"General Acute Care Hospital" shall have the meaning ascribed in both Section 5A-12.2 of the Illinois Public Aid Code (Section 2310-640(e) of the Act) and the Illinois Department of Healthcare and Family Services' rules (see 89 Ill. Adm. Code 148.458(a)).

"Grant Agreement" means the agreement entered into between the Department and the grantee setting forth the terms and conditions of a grant award.

"Grant Funds" means public funds dispensed by the Department to any person or entity for obligation, capital expenditure, or use for a specific purpose.

"Grantee" means a recipient of a grant under this Part.

"Hospital" shall have the meaning ascribed in Section 3 of the Hospital Licensing Act, but in no event shall it include a hospital owned or operated by a State agency, a State university, or a county with a population of 3,000,000 or more. (Section 2310-640(e) of the Act)

"Hospital System" means a group of hospitals, facilities and organizations engaged in providing health care within a geographical area.

"Medicaid Inpatient Day" shall have the meaning ascribed in Section 5A-12.2(n) of the Illinois Public Aid Code. (Section 2310-640(e) of the Act)

"Medicaid Inpatient Utilization Rate" shall have the meaning ascribed in 89 Ill. Adm. Code 148.20(i)(4) for the rate year beginning on October 1, 2008. (Section 2310-640(e) of the Act)

"Not-for-Profit Hospital" means a hospital that is subject to Sections 101.80(m) and 103.05(a) of the General Not For Profit Corporation Act of 1986.

"Obligation" or "Obligated" means that the project has commenced and is proceeding with due diligence and that the grantee is meeting the time frame requirements outlined in the grant application and in Section 976.190.

"Preplanning Costs" means costs incurred prior to the commencement of a project, including bid solicitations, legal fees, and feasibility studies.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

"Project Completion" means that the project has been brought to a conclusion based on the objectives in the grant application and has met all applicable requirements of the Hospital Licensing Act and the Illinois Health Facilities Planning Act.

"Public Hospital" means a hospital owned by a Hospital District or other public agency (see Section 3(b) of the Hospital District Law).

"Rural" shall have the meaning ascribed in 89 Ill. Adm. Code 148.25(g)(3).
(Section 2310-640(e) of the Act)

"Scrap Value" means the minimal worth of an asset after it is depreciated.

"Site Preparation" means costs for the preparation of a site for construction or modernization, including site drainage, utilities, demolition of existing structures, clearing, grading, and earthwork.

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" shall have the meaning ascribed in the Health Facilities and Services Review Board's rules (see 77 Ill. Adm. Code 1130.140).

"Urban" shall have the meaning ascribed in 89 Ill. Adm. Code 148.25(g)(4).
(Section 2310-640(e) of the Act)

Section 976.20 Referenced Materials

The following materials are referenced in this Part:

- a) Illinois Statutes
 - 1) Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-640]
 - 2) Hospital Licensing Act [210 ILCS 85]
 - 3) Illinois Health Facilities Planning Act [20 ILCS 3960]
 - 4) Illinois Public Aid Code [305 ILCS 5]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 5) Hospital District Law [70 ILCS 910]
- 6) General Not For Profit Corporation Act of 1986 [805 ILCS 105]
- 7) Illinois Administrative Procedure Act [5 ILCS 100]
- 8) Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- 9) Freedom of Information Act [5 ILCS 140]
- b) Illinois Administrative Rules
 - 1) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - 2) Hospital Licensing Requirements (77 Ill. Adm. Code 250)
 - 3) Narrative and Planning Policies (77 Ill. Adm. Code 1100)
 - 4) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)
 - 5) Health Facilities Planning Procedural Rules (77 Ill. Adm. Code 1130)
 - 6) Hospital Services (89 Ill. Adm. Code 148)
 - 7) Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (89 Ill. Adm. Code 149)

Section 976.30 Administrative Hearings

Administrative hearings conducted concerning the provisions of this Part shall be governed by the Department's Practice and Procedure in Administrative Hearings.

Section 976.40 Freedom of Information

The provisions of the Freedom of Information Act shall apply to this Part.

SUBPART B: SAFETY NET HOSPITAL GRANTS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

AND COMMUNITY HOSPITAL GRANTS

Section 976.50 Grant Descriptions

- a) Grants provided to hospitals under this Part can be used only to fund capital projects, including:
- 1) *to satisfy any building code, safety standard or life safety code;*
 - 2) *to maintain, improve, renovate, expand or construct buildings or structures;*
 - 3) *to maintain, establish or improve medical equipment or health information technology; or*
 - 4) *to maintain or improve patient safety, quality of care or access to care.* (Section 2310-640(a) of the Act)
- b) The Department shall make grants to hospitals that meet the eligibility requirements of Section 976.60.
- 1) General acute care hospitals qualifying under Section 976.60(a)(1) and/or (a)(2) will receive \$7,000,000. General acute care hospitals qualifying under Section 976.60(a)(3), (a)(4) and/or (a)(5) will receive \$4,600,000.
 - 2) General acute care hospitals that qualify for community hospital grants will receive:
 - A) Either:
 - i) *\$170,000 if the hospital is located in an urban area; or*
 - ii) *\$340,000 if the hospital is located in a rural area; and*
 - B) *a payment equal to the product of \$45 multiplied by the total Medicaid inpatient days.* (Section 2310-640(c) of the Act)
- c) Grants awarded through this program cannot be:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 1) *used to pay for any on-going operational costs;*
- 2) *used to pay outstanding debt; or*
- 3) *allocated to an endowment or otherwise invested fund. (Section 2310-640(a) of the Act)*

Section 976.60 Grant Eligibility

To be eligible to apply for a grant, a hospital shall either meet one of the requirements in subsection (a) or the requirements of subsection (b) and shall meet the requirement of subsection (c).

- a) To be eligible to apply for a Safety Net Hospital Grant, a hospital shall be one of the following:
 - 1) *Any general acute care hospital located in a county of over 3,000,000 inhabitants that has a Medicaid inpatient utilization rate for the rate year beginning October 1, 2008 greater than 43%, that is not affiliated with a hospital system that owns or operates more than 3 hospitals, and that has more than 13,500 Medicaid inpatient utilization days (Section 2310-640(b)(1) of the Act);*
 - 2) *Any general acute care hospital that is located in a county of more than 3,000,000 inhabitants and has a Medicaid inpatient utilization rate for the rate year beginning on October 1, 2008 greater than 55% and has authorized beds for the obstetric-gynecology category of service as reported in the 2008 Annual Hospital Bed Report, issued by the Illinois Department of Public Health (Section 2310-640(b)(2) of the Act);*
 - 3) *Any hospital that is defined in 89 Ill. Adm. Code 149.50(c)(3)(A) and that has less than 20,000 Medicaid inpatient days (Section 2310-640(b)(3) of the Act);*
 - 4) *Any general acute care hospital that is located in a county of less than 3,000,000 inhabitants and has a Medicaid inpatient utilization rate for the rate year beginning on October 1, 2008 greater than 64% (Section 2310-640(b)(4) of the Act); or*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 5) *Any general acute care hospital that is located in a county of over 3,000,000 inhabitants and a city of less than 1,000,000 inhabitants, that has a Medicaid inpatient utilization rate for the rate year beginning October 1, 2008 greater than 22%, that has more than 12,000 Medicaid inpatient days, and has a case mix index greater than 0.71 (Section 2310-640(b)(5) of the Act).*
- b) Community Hospital Grants. The Department will make capital grants to *any public or not-for-profit hospitals* that:
 - 1) *are located in counties of less than 3,000,000 inhabitants and that are not otherwise eligible for a Safety Net Hospital grant; and*
 - 2) *have a Medicaid inpatient utilization rate for the rate year beginning on October 1, 2008 of at least 10%. (Section 2310-640(c) of the Act)*
- c) A hospital that applies for a grant under this Part shall be licensed by the Illinois Department of Public Health in accordance with the Hospital Licensing Act. The license shall be valid and the hospital shall be in operation when the grant application is submitted, when the grant agreement is executed and when the project is complete.

Section 976.70 Grant Application Requirements

Grant applications shall contain the following:

- a) General Information
 - 1) Project Summary. The applicant shall provide a description of the project, including the project's needs and expected accomplishments. The summary shall also provide a description of the resources, both available and needed, for the project.
 - 2) Project Narrative. The narrative shall state the need for the project, the expected impact on hospital operations, and the anticipated population to be served. The narrative shall also address any of the following (as applicable):

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- A) *Projects to satisfy any building code, safety standard or life safety code;*
 - B) *Projects to maintain, improve, renovate, expand or construct buildings or structures;*
 - C) Projects to improve, replace or acquire equipment;
 - D) *Projects to maintain, establish or improve health information technology;*
 - E) *Projects to maintain or improve patient safety;*
 - F) Projects to maintain or improve *quality of care; or*
 - G) Projects to maintain or improve *access to care.* (Section 2310-640(a) of the Act)
- 3) Project Objectives. The applicant shall document the measurable objectives that the project will accomplish. Once the objectives are identified, the applicant shall describe the implementation plan for the objectives and a timetable for achievement of the objectives.
- 4) Project Budget. The applicant shall list the total dollar amount needed for the project, including the amount to be provided by the hospital and other funding sources and the amount of funding requested through the grant. In the budget, the applicant shall identify all revenue sources and amounts and provide budget estimates, including capital expenditures for the duration of the project.
- A) The project's budget could include, for example, the following costs:
 - i) Architectural and engineering;
 - ii) Construction or modernization;
 - iii) Contingencies;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- iv) Debt financing (including the cost of leased assets);
 - v) Equipment;
 - vi) Preplanning;
 - vii) Site preparation.
- B) The applicant shall also provide the sources of funds for the project. This could include, for example, the following:
- i) Cash and equivalents. The applicant shall document that cash is held in reserve and will be used for the project.
 - ii) Debt financing. Documentation shall include a commitment letter from the applicant's financial institution attesting that financing is available.
 - iii) Government appropriations. The applicant shall furnish a copy of the statute that documents that an appropriation was awarded.
 - iv) Other sources. The applicant shall document the amount and type of other funds (e.g., pledges, gifts and grants) available.
- C) The cost of the project shall equal or exceed the amount of grant funding requested.
- 5) Budget Narrative. The applicant shall provide a description of all amounts included in the project's budget. This narrative shall describe the relationship between the funding request and the project's goals and objectives.
- b) For projects that involve construction or modernization, the applicant shall document that the project will result in the renovation, replacement or expansion of facilities. Documentation shall consist of:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 1) Hospital Licensing Act requirements that mandate the construction or modernization;
 - 2) Illinois administrative rules that mandate the construction or modernization;
 - 3) Building, fire or life safety code standards that mandate the construction or modernization;
 - 4) Expansion of treatment, training or other support services that is necessary to meet the requirements of existing services;
 - 5) Requirements for increased access to care, quality of care, or patient safety; and
 - 6) Requirements for improved or enhanced operational efficiency.
- c) For projects that involve replacing or acquiring medical equipment, the applicant shall document the following:
- 1) The type of equipment being acquired;
 - 2) Anticipated benefits that the new equipment will provide;
 - 3) The age of the current equipment being replaced;
 - 4) Down time or time spent out of service due to operational failures of the current equipment;
 - 5) Upkeep and annual maintenance costs of the current equipment; and
 - 6) Equipment that has expended its useful life (documentation shall consist of the grantee's most recent depreciation schedule that demonstrates that the equipment is totally depreciated and only scrap value remains).
- d) For projects that involve replacing or acquiring information technology, the applicant shall document the following:
- 1) The type of new technology being acquired;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 2) Anticipated benefits that the new technology will provide;
 - 3) The purpose of or need for the new technology;
 - 4) The life cycle of the new technology; and
 - 5) The cost savings or cost avoidance (if any) of implementing the new technology.
- e) The applicant shall document that the project does (or does not) require a CON or a COE from the Health Facilities and Services Review Board. Documentation shall consist of the following:
- 1) For projects that do not require a CON or COE, the applicant shall document that the project does not include any of the items listed in the CON/COE Assessment of Applicability referenced in Section 976.100(a)(8).
 - 2) For projects that require a CON or COE, the applicant shall document that an application has been (or will be) submitted to the Health Facilities and Services Review Board. In accordance with Section 976.120(b), projects eligible for a grant that also require a CON or COE will be issued contingent awards until the CON or COE is obtained.
- f) Licensure Requirement. The applicant shall document that the project does (or does not) require a licensure review from the Department's hospital licensing program. Documentation shall consist of one of the following:
- 1) For projects that do not require a review, the application shall contain a letter from the Department stating that licensure review is unnecessary.
 - 2) For projects that require a review, the applicant shall provide documentation that the Department has received and accepted the project for licensure review and that a project tracking number has been issued.

Section 976.80 Grant Application Review Criteria

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- a) *In awarding grants, the Department shall consider criteria that include but are not limited to:*
- 1) *financial requirements of the project and the extent to which the grant makes it possible to implement the project;*
 - 2) *the proposed project's likely benefit in terms of patient safety or quality of care; and*
 - 3) *the proposed project's likely benefit in terms of maintaining or improving access to care. (Section 2310-640(a) of the Act)*
- b) *The Department shall determine eligible project costs, including but not limited to the use of funds for the acquisition, development, construction, reconstruction, rehabilitation, improvement, architectural planning, engineering, and installation of capital facilities consisting of buildings, structures, technology and durable equipment for hospital purposes. (Section 2310-640(a) of the Act) (See Sections 976.10 and 976.70(a)(4)(A).)*

Section 976.90 Notice of Grant Opportunity

- a) The Department will publish a notice announcing the grant opportunity in the official State newspaper. A notice will also be posted on the Department's web site. This notice shall consist of at least the following elements:
- 1) Instructions on fulfilling the Letter of Intent requirements (see Section 976.100);
 - 2) Identification of the grant opportunity, including a brief description of the program and the date that grant applications can be submitted to the Department;
 - 3) Identification, including mailing address and telephone number, of the Department's unit or section that is responsible for the grant program; and
 - 4) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- b) As stated in the notice, a letter of intent shall be filed with the Department at least 10 calendar days prior to the submission of an application. Applicants will have 120 calendar days to submit applications for grant funding. The 120 calendar day time frame begins on the date of publication of the notice. Applications received after the 120 calendar day time frame will not be processed and reviewed.

Section 976.100 Letter of Intent

Prior to submitting a grant application, an applicant shall submit a letter of intent (LOI) to the Department.

- a) The LOI shall be received at least 10 calendar days prior to the submission of a grant application and shall contain the following:
- 1) The name of the applicant;
 - 2) The name of the hospital where grant funds will be used;
 - 3) The site of the proposed project, including the address of the hospital where grant funds will be used;
 - 4) The county where the hospital is located;
 - 5) A description of the project;
 - 6) The hospital's Medicaid inpatient utilization rate for the rate year beginning October 1, 2008;
 - 7) The signature and contact information of an authorized official from the hospital; and
 - 8) Information on whether the project requires a CON or COE from the Health Facilities and Services Review Board. The CON/COE Assessment of Applicability Internet site can assist in this determination:

<http://www.idph.state.il.us/about/hfpb/pdf/Revised%20Checklist%2005-08-09.pdf>
- b) The LOI is valid for one year from the date of receipt by the Department.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- c) The Department will review the LOI to ensure that all requirements of this Section are included. If all requirements are not included, the Department will contact the applicant and request a revised LOI.
- d) Once an LOI has been submitted that meets all of the stated requirements, the Department will determine if the applicant is eligible to apply. The Department will contact the applicant with its determination.
- e) The date the Department determines that the LOI fulfills the requirements of this Section shall be the date the 10 calendar day time frame will commence.

Section 976.110 Grant Application Processing

When an LOI fulfills all of the requirements of Section 976.100, a grant application can be submitted.

- a) Upon receipt of a grant application, the Department will:
 - 1) Determine if the application was submitted within the time frame requirements of Section 976.90. An application that was not submitted within the prescribed time frame will be deemed null and void.
 - 2) Within 30 calendar days after receipt of the application, conduct a completeness determination to assess whether all applicable review information and all required materials and documentation have been submitted (see Section 976.70).
 - A) If the application is deemed complete, the Department will proceed with a grant award (see Section 976.120).
 - B) If the application is deemed incomplete, the Department will contact the applicant in writing (via a certified letter) and inform the applicant of the information and/or materials needed to complete the application. The applicant will have 30 calendar days (from the date that the applicant received the certified letter) to provide the requested information. Responses received after the 30 calendar day time frame will result in the application being deemed null and void.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- b) Review of Applications
 - 1) All applications will be reviewed and evaluated with the review criteria set forth in the Act and in this Part (see Section 976.80).
 - 2) Each application will be reviewed on an individual basis. There will be no comparative review of applications.
 - 3) Based on the eligibility requirements in Section 2310-640(b) and (c) of the Act, only one application per hospital will be approved.

Section 976.120 Grant Awards

- a) Applicants whose applications are deemed complete and in compliance with all applicable requirements of this Part will be awarded a grant. The amount of a grant will be based on the criteria specified in Sections 976.50 and 976.70(a)(4).
- b) Applicants whose applications are deemed complete and in compliance with all applicable requirements of this Part and are also subject to the requirements of the Health Facilities Planning Act will be awarded a grant contingent on the issuance of a CON or COE from the Health Facilities and Services Review Board. When an applicant receives a contingent grant award but does not receive the CON or COE, the grant award will be voided. Should a grant award be voided, a hospital can apply for a new grant award (subject to the requirements of Sections 976.60 through 976.110). Should a new grant application also be subject to the requirements of the Illinois Health Facilities Planning Act, a grant award will be contingent on the issuance of a CON or COE.
- c) The Department and grantee will enter into a grant agreement that will describe the requirements that the grantee shall fulfill based on the goals and objectives in the application.
- d) Grants are valid for three years from the date the agreement is executed, and projects shall be completed within this time frame. If a project cannot be completed within this time frame, the agreement can be amended to provide an extension to complete the project. The grantee shall submit a written request for the extension and include the following:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 1) Documentation that grant funds have been obligated;
 - 2) Explanation of why the project cannot be completed as planned; and
 - 3) Documentation that financial resources are available to complete the project.
- e) An extension request shall be received by the Department at least 60 calendar days prior to the agreement's expiration date. The Department will review the extension request and modify the agreement's completion date accordingly. If the grantee has not obligated the project or has not proceeded with due diligence, the extension will not be granted, and the funds awarded shall immediately be remitted to the Department.
- f) Grantees whose projects receive an extension of the required completion date and are subject to CON requirements shall also document that the project received a permit renewal from the Health Facilities and Services Review Board (see 77 Ill. Adm. Code 1130.740).

Section 976.130 Grant Funds Distribution

- a) Funds will be released by the Department to grantees proportionate to the amount of funds appropriated and available each fiscal year. Grantees will receive a percentage of the total funds awarded that is in proportion to the funding made available to the Department each fiscal year. Percentage calculations will be determined by dividing the amount of funding released in a fiscal year into the total amount of funding that will be awarded over the duration of the program.
- b) Any funding commitments of the Department to the grantee will cease if the Illinois General Assembly fails to appropriate sufficient funds for the program.
- c) Grants will be made to eligible applicants upon availability of funds annually.

Section 976.140 Grant Funds Recovery

- a) If the grantee fails to comply with this Part or the terms of the grant agreement or upon the Department's determination that grant funds have been misused or misspent, the grantee immediately shall repay to the Department all monies disbursed to the grantee under the Hospital Capital Investment program.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- b) A breach of the grant agreement shall include, but not be limited to, the following:
 - 1) Failure to complete the project as approved (see Section 976.150(d));
 - 2) Failure to obligate the project (see Sections 976.150(c) and 976.160);
 - 3) The assignment or transfer of the grant agreement to another entity (see Section 976.150(e));
 - 4) Material misstatement in reporting information to the Department;
 - 5) Material misrepresentation to the Department for the purpose of obtaining a grant.
- c) Misused or misspent grant funds shall include, but not be limited to, the following:
 - 1) Expending funds on a project component or activity that was not approved in the grant agreement;
 - 2) Expending funds on a component or activity that was not part of the project and that was not approved in the grant agreement.
- d) If the grantee does not repay all funds owed to the Department, the Department shall refer the matter to the Illinois Attorney General for resolution.
- e) A grantee may seek judicial review of the Department's determination under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

Section 976.150 Grant Validity

- a) Grants are effective on the date that an agreement is executed between the Department and the grantee.
- b) A grant is valid for three years from the date the agreement is executed, provided that:
 - 1) Obligation of the project occurs; and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 2) The project commenced and proceeds to completion with due diligence.
- c) The Department will deem a grant agreement null and void if the grantee does not obligate the grant funds (see Section 976.160) or if the project does not proceed with due diligence. If the grant agreement is voided, the grantee shall immediately remit to the Department all grant funds awarded.
- d) Grants are valid only for the approved construction or modernization, equipment, information technology, amount, and hospital named in the application.
- e) Grants are not assignable or transferable. Any assignment or transfer shall render the grant agreement null and void, and all grant funds awarded shall be remitted immediately to the Department. For purposes of this Part, grants will not be considered transferred or assigned if a CON or a COE authorizing the change of ownership of the hospital is issued by the Health Facilities and Services Review Board (see 77 Ill. Adm. Code 1110.240 and 1130.520).
- f) If the grantee ceases operation and is no longer a licensed hospital, the grant agreement is voided and all grant funds awarded shall immediately be remitted to the Department.

Section 976.160 Obligation

- a) A grantee shall obligate the funds no later than 18 months after the Illinois State Comptroller has made the initial payment to the grantee.
- b) Obligation occurs when one of the following is submitted to the Department:
 - 1) A copy of a signed construction contract that is equal to or exceeds 30% of the total project cost (if a project involves construction or modernization that will be performed without a contract, obligation occurs when the hospital's Board of Directors authorized the project to commence);
 - 2) A copy of a signed purchase order that equals or exceeds 30% of the total project cost for medical equipment or information technology; or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 3) Documentation of the combined total capital expenditure of 30% or more of the project cost (documentation shall consist of a certification from the grantee attesting to the amount of funds expended).
- c) Failure to submit an obligation notice within the prescribed time frame will result in the Department pursuing the recovery of grant funds (see Section 976.140).

Section 976.170 Alteration

- a) The scope of an approved project can be altered within the parameters established in this Section. All alterations require notification to the Department. Approval shall be obtained from the Department for certain alterations (depending on the scope of the change). For alterations that require approval, the grantee shall receive authorization prior to incurring the alteration.
- b) Alterations that require notification but do not require approval include:
 - 1) The transfer of funds between line items for amounts not exceeding 25% of the original line item amount; or
 - 2) An increase in the total project cost not to exceed 5% of the original project cost.
- c) Alterations that require approval include:
 - 1) The transfer of funds between line items for amounts exceeding 25% of the original line item amount; or
 - 2) An increase in the total project cost in excess of 5% of the original project cost.
- d) Alteration Procedures
 - 1) For all alteration requests, the grantee shall notify the Department in writing. This notification shall include:
 - A) A description of the alteration;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- B) A narrative of the item or items that will change as a result of the alteration; and
 - C) Any costs or services affected.
- 2) The Department will review all alteration requests. For requests that require approval, the Department will notify the grantee of its determination within 30 calendar days after receipt of the request.
 - 3) Alterations that affect the corresponding grant award or grant agreement will result in those documents being amended accordingly.
- e) A grantee may alter funding three times during the grant agreement.
 - f) Grantees whose projects are subject to a CON shall also document that the project has received a permit alteration from the Health Facilities and Services Review Board (see 77 Ill. Adm. Code 1130.750).

Section 976.180 Progress Reports

- a) Each grantee shall submit a progress report to the Department every 12 months from the date that the grant agreement is executed until the project is complete. The progress report is due within 10 calendar days after the anniversary date of the grant agreement. The progress report shall include the following:
 - 1) The current status of the project, including the percentage of the project finished, components finished and components yet to be finished;
 - 2) The cost incurred to date and an itemized listing of the total current estimated project costs compared to the approved amounts;
 - 3) The anticipated date of completion; and
 - 4) The notarized signature of the grantee's Chief Executive Officer stating that this is a true and complete report on the project's status.
- b) Failure to provide progress reports within the prescribed time frames will result in the Department pursuing the recovery of grant funds (see Section 976.140).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

Section 976.190 Project Completion

Each grantee shall notify the Department within 30 calendar days following the project's completion.

- a) The completion notice will provide a notarized statement that certifies the following:
 - 1) All project costs and sources of funds;
 - 2) That all funds attributed to the grant award have been expended;
 - 3) That the costs reported are the final costs required to complete the project and there are no additional or associated costs; and,
 - 4) That no portion of the grant was used *to pay for any on-going operational costs, outstanding debt or an endowment or other invested fund.* (Section 2310-640(a) of the Act)
- b) The notarized statement shall be signed by the grantee's Chief Executive Officer.
- c) Grantees whose projects are subject to CON requirements shall also document that the Health Facilities and Services Review Board has deemed the project complete (see 77 Ill. Adm. Code 1130.770). Documentation shall consist of a letter from the Health Facilities and Services Review Board attesting that the project is complete.
- d) Grantees whose projects are pending approval in accordance with the requirements of the Hospital Licensing Act shall also provide a copy of the Permanent Occupancy or Notice of System Acceptance letter (whichever is applicable) issued by the Department.
- e) Failure to provide the completion notice within the prescribed time frame will result in the Department pursuing the recovery of grant funds (see Section 976.140).