



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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8/24/2016 4:00:29 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY **Health Care Authority**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE No TITLE-SERIES **65-30**

RULE NAME **Rural Health Systems Grant Program**

CITE AUTHORITY **16-2D-4(a)(3),16-2D-3(b)(2),16-29B-11, 16-29B-8(a)(1)**

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 65-30



Rule Id: 10149



Document: 28866



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

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PRIMARY CONTACT

Cynthia Dellinger
100 Dee Drive

Charleston, STATE ZIP

SECONDARY CONTACT

Marianne Kapinos
100 Dee Drive

Charleston, STATE SECONDARY ZIP SECONDARY

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AUTHORIZING STATUTE(S) CITATION
16-2D-4(a)(3),16-2D-3(b)(2),16-29B-11, 16-29B-8(a)(1)

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Thursday, June 09, 2016

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?
agency newsletter and website

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED
Monday, July 11, 2016

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

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CITE AUTHORITY **16-2D-4(a)(3),16-2D-3(b)(2),16-29B-11, 16-29B-8(a)(1)**

ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

Attached

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Wednesday, August 24, 2016

**Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. GIVE THE DATE UPON WHICH YOU FILED IN THE STATE REGISTER A NOTICE OF THE TIME AND PLACE OF A HEARING FOR THE TAKING OF EVIDENCE AND A GENERAL DESCRIPTION OF THE ISSUES TO BE DECIDED.

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS

None

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Health Care Authority**
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SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

There will be no effect

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CITE AUTHORITY **16-2D-4(a)(3),16-2D-3(b)(2),16-29B-11, 16-29B-8(a)(1)**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY Health Care Authority

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 65-30

RULE NAME Rural Health Systems Grant Program

CITE AUTHORITY 16-2D-4(a)(3),16-2D-3(b)(2),16-29B-11, 16-29B-8(a)(1)

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

There is no effect

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PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

There are none.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

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CITE AUTHORITY **16-2D-4(a)(3),16-2D-3(b)(2),16-29B-11, 16-29B-8(a)(1)**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

HB 4365 directed the Health Care Authority to promulgate emergency rules prior to December 31, 2016 to implement the provisions of this legislation. This is one of the rules mandated by this legislation.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Marianne Kapinos -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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TITLE 65
LEGISLATIVE RULE
WV HEALTH CARE AUTHORITY

SERIES 30
RURAL HEALTH SYSTEMS GRANT PROGRAM

§65-30-1. General.

1.1. Scope. -- This rule establishes the application, award and post award process for the Rural Health Systems Grant Program which includes both grants and loans.

1.2. Authority. -- W. Va. Code §16-29B-8(a)(1), §16-29B-11, §16-2D-3(b)(2), and §16-2D-4(a)(3).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Date. --

§65-30-2. Definitions.

The following words and terms, when used in this rule, shall have the following meaning, unless the context clearly indicates otherwise:

As used in this legislative rule, all terms that are defined in section 2 of the Act have those same meanings which are in some cases further clarified in this section. Terms not defined in the Act have the following meanings unless the context expressly requires otherwise.

2.1 "Act" means the certificate of need act, W.Va. Code § 16-2D-1, et seq.

2.2. "Applicant" means a non-profit health care provider, health care facility or qualified government agency which applies for a grant pursuant to this rule and is responsible for the administration of the grant.

2.3 "Authority" means the West Virginia Health Care Authority, established by W. Va. Code §16-29B-5.

2.4 "Board" means the Board of the West Virginia Health Care Authority, as established by W. Va. Code §16-29B-5.

2.5. "Fixed interest rate" means an interest rate on a loan that remains fixed for the entire term of the loan.

2.6. "Grant" means a grant made from the Authority's state special revenue funds approved by the Board to an applicant.

2.7. "Grant Award" means a signed document between the Board and the applicant pertaining to a grant and pursuant to Section 10 of this rule.

2.8. "Grant Period" means the time period from the beginning project date through the end of the project date and any extensions granted by the Board.

2.9. "Health Care Provider" means an individual, institution or agency that provides health services to health care consumers.

2.10. "Qualified Government Entity" means a state agency or component of state government that may provide transportation for medical treatment to a health care provider for the benefit of the community.

2.11. "Loan" means an amount borrowed from the Authority's state special revenue account that is expected to be paid back with interest.

2.12. "Loan Agreement" means a signed document between the Board and the applicant pertaining to the loan pursuant to Section 16 of this rule.

2.13. "State Fiscal Year" means the fiscal year for the State of West Virginia which is July 1 through June 30.

2.14. "Statement of Work" means a project description of a grant or loan.

2.15 "Underserved Areas" means Health Professional Shortage Areas or Medically Underserved Areas as designated by the Health Resources Services Administration or the West Virginia Department of Health and Human Resources.

2.16. "WVOASIS" means the State of West Virginia's accounting system.

§65-30-3. Grant and Loan Funding.

Grant and loan funds will be administered from the Health Care Authority Special Revenue Fund on an annual basis and based upon availability of funds each fiscal year. Funding per recipient is capped at an aggregate of \$50,000 per fiscal year for each type of award pursuant to Section 4 of this rule, however, special circumstances may occur in which the Board may consider and approve funding in excess of the capped amount.

§65-30-4. Grant and Loan Types.

Two types of grant and loan funds are available under the Rural Health Systems Program (RHSP). These funds may be awarded to financially vulnerable health care providers located in underserved areas to provide cost effective health services.

4.1. Collaborative – Projects that are collaborative in nature that have a health care benefit to the community. The applicant must be a health care provider and collaborate with at least one other health care provider, support/ancillary provider, and/or community support providers. Collaborative projects are funded by grants only.

4.2. Crisis/Essential Infrastructure – Funding for emergency or essential items that are needed and without which will put the health services or patient care at risk. The applicant must be a health care

provider and may in the near future be facing foreclosure from having severe financial difficulties due to cash flow problems, extreme growth in accounts receivable or payable, or multiple missed principal payments on long-term debt, etc. Crisis projects are funded by grants and loans.

§65-30-5. Grant and Loan Cycles.

5.1. Grant cycles will be awarded for a project period not to exceed twelve (12) months and must be awarded for a project period within the state fiscal year.

5.2. Collaborative grants will be awarded on a twelve (12), and six (6) month cycles, and applications must be submitted pursuant to the deadlines referenced in Section 8.

5.3. Crisis/Essential Infrastructure grants will be awarded based upon the project period requested within the application and must be within a state fiscal year project period. Due to the nature of the need, Crisis/Essential Infrastructure applications may be submitted at any time if the health care provider is in a crisis situation.

5.4. Crisis/Essential Infrastructure loans may be applied for and approved at any time based upon need.

§65-30-6. Grant and Loan Eligibility.

6.1. The applicant must meet the definition as referenced in Section 2.1.

6.2. Must be located in a Medically Underserved Area (MUA) as defined by the federal government or a Health Professional Shortage Area (HPSA). In the absence of being located in a MUA or HPSA, a waiver of the MUA or HPSA status must be granted by the Office of Community Health Systems and Health Promotion, West Virginia Department of Health and Human Resources.

6.3. The applicant must be a state registered vendor, registered with the Secretary of State's Office, not on hold or debarred in WVOASIS due to Workers' Compensation or other state programs, not debarred from the West Virginia Department of Health and Human Resources grants or the WV Legislature State Agency Grant Awards (SAGA) website and all financial disclosures to the Authority are current.

§65-30-7. Administration.

The grants and loans are administered by the Authority in collaboration with the Office of Community Health Systems, West Virginia Department of Health and Human Resources per WV Code §16-2D-3. The applications are reviewed and then recommended for approval or denial by the RHSP Committee which consists of members from both Office of Community Health Systems and the Authority. Final approval shall be determined by the Board of the Authority.

§65-30-8. Application – Grant and Loan.

8.1. Any eligible applicant which desires to participate in the program shall make an application to the Board on the prescribed forms as published in the application package.

8.2. Applications must include a description of the proposed project, a detailed project budget, properly executed and signed resolution authorizing the application, and all other documentation as prescribed in the grant or loan application package. All required documentation must be signed by an authorized individual from the applicant's agency and collaborating partners, if applicable, where indicated.

8.3. Grant applications must be received by the Authority in order to be considered. Annual deadlines for collaborative grants will be posted on the West Virginia Health Care Authority website and will not be considered if the deadline is missed. Crisis grant and loan applications can be received at any time and reviewed by the committee and Board.

8.4. The Authority may request such information as it deems necessary to evaluate any applications, including, but not limited to, financial and budgetary information related to the application or with any collaborating partners of the application.

8.5. Failure to provide the required application information, or failure to provide additional requested information by a specific date, in order to evaluate an application, may disqualify the application.

8.6. The Authority reserves the right to reject any application on the basis of amount of funding sought; to request the applicant revise an application to a different funding level; or to award more or less than the full amount requested in the application.

8.7. No applicant can receive more than \$50,000 in aggregate for each type of award (Collaborative or Crisis/Essential Infrastructure) per state fiscal year. Extraordinary circumstances may exist in which the Board has the authority to authorize annual awards above this amount.

8.8. Preference will be given to budget requests to purchase tangible items such as equipment, other capital expenditures, materials and supplies, contracts, etc. Funding for salaries and benefits will be limited to a short-term basis. On-going salary, benefits and fixed costs (such as rent, utilities, etc.) will not be considered for funding since it is not likely these expenditures can be sustained after the grant period. Grant monies cannot be budgeted and passed on to a third party. Title to equipment or buildings purchased with grant funds will remain with the Grantee unless otherwise noted in the award document.

8.9. Sustainability of how the project will continue after the grant funds are expended must be detailed, if applicable.

8.10. The applicant will be notified in writing within thirty (30) days of approval or denial of the grant or loan. Approval or disapproval will be determined by the Board, after recommendations have been made by the RHSP Committee.

§65-30-9. Grant Match Requirement.

A one to one match requirement is required for Collaborative grants. Qualifying match may be cash or in-kind services rendered during the award period and documentation must remain on site. The Grantee will be required to certify its match at the end of the grant period. No match requirements are required for a Crisis/Essential Infrastructure grant. No match is required for loans.

§65-30-10. Grant Award.

10.1. The grant award may be issued for a maximum period up to twelve (12) months and will consist of a standard grant agreement which includes exhibits that are specialized for the award to outline statement of work, budget, payment methodology, no debt requirement, and required reports of the Grantee. The grant period must end by the end of the state fiscal year.

10.2. The grant award is not effective until both the Grantee and the Board Chair, or designee, has signed the agreement. A fully executed original copy of the award will then be mailed to the Grantee after finalized.

10.3. All project expenditures must occur within the grant period. The Board has the authority to approve a retroactive start date if the project deems necessary.

10.4. Expenditures above the award amount are the responsibility of the Grantee.

§65-30-11. Grant Payment Methodology.

Grants will be paid in accordance to the terms in the Grantee's grant agreement which may be one of two methods. And, a final invoice must be submitted within thirty (30) days of the project end date to ensure payment.

11.1. Reimbursement may be monthly or quarterly and the Grantee is responsible for submitting the invoice on the prescribed form provided. The Grantee must submit reasonable documentation that the expenses were incurred for the period being invoiced. Example documentation may include copies of applicable general ledger sections, copies of checks, invoices reflecting payment, etc.

11.2. Schedule of Payments which is generally used when the Grantee does not have sufficient cash on hand to pay for the grant expenditures before they are reimbursed. Payment dates will be negotiated in the award process. The Grantee is responsible for invoicing the funds by submitting a request for reimbursement on their agency letterhead. If multiple payments are scheduled, the initial payment will be released as an advance, and the Grantee must provide a reconciliation and documentation that reflects that a significant portion of the prior installment has been spent before additional payments are released.

§65-30-12. Grant Change Orders.

Instances may occur in which the original grant agreement needs modified via a change order. The change order will be numbered in numerical order as approved (ex: 1, 2, 3, etc.) and will amend the original grant. All written requests must be made in advance and prior to the end of the grant period. The Authority will render its decision within ten (10) days of receipt. An approved change order will be effective after both the Grantee and the Board Chair, or designee, has signed the change order. The Grantee will receive a copy of the fully executed change order after finalized. If not approved, the Grantee will be notified in writing. The following are examples of possible change orders requests:

12.1. Expenditures are expected to exceed any line item by 25% - Revision requests must be in writing detailing what line item will be decreased and which line items will increase. In addition, a revised budget must be attached. If a change in scope is also impacted, the revised statement of work must also be submitted.

12.2. Change in Scope - If the Grantee determines that program changes in scope are necessary, the Grantee must submit a request to modify project or scope. The letter must contain a description of the proposed changes and/or proposed budget revisions.

12.1.3. No cost extension – This request extends the grant period. The request must be made in writing by the Grantee and may be approved at the discretion of the Board. Extensions may be granted for a period up to sixty (60) days. Extensions will not be granted past the end of the state fiscal year.

§65-30-13. Grant Monitoring.

Review of invoices and schedule of payment reconciliations will serve as monitoring during the grant period. For those Grantees that do not receive intermittent payments, then the grant close out will serve as the monitoring tool.

§65-30-14. Grant Disallowed Costs and Unspent Funds.

14.1. If a Grantee does not spend funds in accordance with the scope or approved budget, the Authority shall request a reimbursement of the amount of the funds out of compliance. If appropriate and applicable, the Board may elect to retroactively approve a budget revision and statement of work in lieu of reimbursement of funds.

14.2. Schedule of payments that were drawn down by the Grantee but not spent must be returned during the thirty (30) day close out period at the request of the Authority pursuant to Section 15.

14.3. Amounts not invoiced and not paid will be cancelled from the grant award at close out.

14.4. Invoices that are paid on a reimbursement basis are validated and reviewed upon submission. The Grantee should not have invoices for expenditures not incurred.

14.5. Instances may occur in which the audit's qualifying expenses for the grant may be less than the amount invoiced or reconciled. The audited amount takes precedence and the Grantee will be required to reimburse the Authority the amount of the difference unless an acceptable justification can be provided.

§65-30-15. Grant Closeout.

15.1. All grants are closed out per the dates and terms of the grant. Invoice submission and reconciliations will serve as progress reports. Proper documentation per Section 11 must be submitted to validate the expenditures. Any combination of this information is acceptable as long as the documentation appears to be reasonable and validates the expenditures.

15.2. A final report is due within 30 days of the end of the award. The final report will include the following:

15.2.a. Final reconciliation if the grant was on a schedule of payments. If the grant was invoiced on a reimbursement basis, the last invoice serves as the final reconciliation.

15.2.b. A narrative detailing the outcome of the statement of work and the success of the project. Protected health information or personally identifiable information is not to be included in the narrative or any submission.

15.2.c. Instances may occur that require additional close out documents and these requirements will be outlined in the grant agreement.

15.3. If a final report deadline cannot be met, then an extension must be requested in writing to the Authority.

15.4. Grantees must comply with all sections of WV Code §12-4-14 as well as submit the following as outlined in the grant agreement:

15.4.a. If a Grantee received less than \$50,000 in total state grants in a state fiscal year, then a sworn statement of grant receipts and expenditures must be submitted.

15.4.b. If a Grantee received \$50,000 or more in total state grants in a state fiscal year, then the Grantee must file a report of the disbursement of the State grant funds as well as a sworn statement of grant receipts and expenditures. The report is an audit and is defined within the exhibits of the grant agreement.

15.4.c. Governmental entities are exempt from WV Code §12-4-14 but must still submit a sworn statement to the Authority.

15.4.d. Extensions cannot be granted pursuant to WV Code §12-4-14 that are outside of the timeframes per the code section.

15.5. Any Grantee failing to file a required report and/or sworn statement of the expenditures for the State grants within two years after the end of their fiscal year will be barred from subsequently receiving further state grants until the Grantee complies with its reporting responsibilities and is otherwise in compliance with the provision of CSR §148-18, Accountability Requirements for State Funds and Grants.

15.6. Once all of the grant close out documents have been received and it has been determined that the grant activity complies with the award and in compliance with WV Code §12-4-14, a letter will be issued by the Authority to the Grantee closing out the grant.

§65-30-16. Loan Agreements and Repayment.

16.1. Prior to making the loan, the Board shall execute a loan agreement with the applicant, pursuant to the provisions of Section 6 of these rules, which shall include such provisions that may be required by the Board, including, but not limited to, the following:

16.1.a. The cost of the project, the amount of the loan, the terms of the repayment of the loan and, if requested by the Board, a deed of trust or other appropriate security instrument creating a lien.

16.1.b. The specific purposes for which the proceeds of the loan shall be expended, the procedures as to the disbursement of the loan proceeds and the duties and obligations imposed on the applicant.

65CSR30

16.1.c. The interest rate will be a fixed amount at the prime rate plus one percent (1%) at the time of the award. The payback period will be five (5) years or sooner if the applicant requests. An amortization schedule will be provided with the agreement reflecting the due dates and loan payment amounts which will include principal and interest.

16.1.d. An agreement by the applicant to comply with all applicable laws, rules and regulations issued by the Board or other state, federal and local entities.

16.2. Repayment of Loans.

16.2.a. Payment of principal and interest of the loan shall be due on the 1st day of each month with the first payment being due on the 1st day of the following month of the loan agreement.

16.2.b. There will be a 15 day grace period each month that the loan is due. A \$50 late fee will be charged if payment is not received before the grace period.

16.2.c. Default of the loan will result in the applicant being ineligible for future grants or loans within the Authority and any other penalties such as a denial of a Certificate of Need which may be under the Authority's power.

§65-30-17. Board Authority.

The Board reserves the right to approve or deny any requests as it deems necessary in order to ensure the viability of the grant and loan program.