Application Materials for Nursing Home Moratorium Exception

MINNESOTA STATUTES, §144A.073
EXCEPTION TO THE NURSING HOME MORATORIUM

US Mail:
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, MN 55164-0900

Courier:
Minnesota Department of Health
Health Regulation Division
85 East 7th Place, Room 220
St. Paul, MN 55101
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REQUEST FOR PROPOSALS FOR EXCEPTIONS TO THE NURSING HOME MORATORIUM

Purpose

The commissioner of health is accepting written proposals from nursing homes and certified boarding care homes requesting funding through the moratorium exception process, according to Minnesota Statutes 144A.073. The commissioner of health, in coordination with the commissioner of human services, may approve such requests under conditions listed in Minnesota Statutes. These conditions refer to categories of exceptions which are defined as:

(a) “Conversion” means the relocation of a nursing home bed from a nursing home to an attached hospital.
(b) “Relocation” means the movement of licensed nursing home beds or certified boarding care beds as permitted by state statute to promote equitable access across the state or to move the beds to another site.
(c) “Renovation” means extensive remodeling of an existing facility with a total cost exceeding ten percent of the appraised value of the facility or $200,000, whichever is less. A renovation may include the replacement or upgrade of existing mechanical or electrical systems.
(d) “Replacement” means the construction of a complete new facility.
(e) “Addition” means the construction of new space to an existing facility.
(f) “Upgrading” means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility.

(g) “Phased project” means a proposal that identifies construction occurring with more than one distinct completion date. To be considered a distinct completion, each phase must have construction that is ready for resident use, as determined by the commissioner, that is not dependent on similar commissioner approval for future phases of construction. The commissioner of human services shall only allow rate adjustments for construction projects in phases if the proposal from a facility identifies construction in phases and each phase can be approved for use independent of the other phases.

Appropriation Available

The amount of the legislative appropriation available for the total annual additional costs to the Medical Assistance program for this Request for Proposals (RFP) is approximately $1,227,867.
NOTE: As of 10-01-17, Minnesota Statutes 256B.434, subd. 4f, allows projects with costs less than $1,580,945 to proceed without applying for a moratorium exception under this process.

Eligibility to Submit a Proposal

A proposal for an exception to the nursing home moratorium may be submitted by an organization or individual authorized by a facility’s governing board or management to prepare and submit a proposal to the commissioner of health.

Method for Estimating Proposal Cost

The method that the commissioner will use in evaluating proposals for approval or disapproval for estimating the cost of a proposal is detailed in the application materials.

Criteria for Review

Minnesota Statutes 144A.073, subd. 4a, states the criteria the commissioner of health is to consider in reviewing moratorium exception proposals:

Subd. 4a. Criteria for review. In reviewing the application materials and submitted costs by an applicant to the moratorium process, the review panel shall consider the following criteria in recommending proposals:

(1) the extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults;
(2) the extent to which the project provides for the complete replacement of an outdated physical plant;
(3) the extent to which the project results in a reduction of nursing facility beds in an area that has a relatively high number of beds per thousand occupied by persons age 85 and over;
(4) the extent to which the project produces improvements in health; safety, including life safety code corrections; quality of life; and privacy of residents;
(5) the extent to which, under the current facility ownership and management, the provider has shown the ability to provide good quality of care based on health-related findings on certification surveys, quality indicator scores, and quality-of-life scores, including those from the Minnesota nursing home report card;
(6) the extent to which the project integrates the latest technology and design features in a way that improves the resident experience and improves the working environment for employees;
(7) the extent to which the sustainability of the nursing facility can be demonstrated based on the need for services in the area and the proposed financing of the project; and
(8) the extent to which the project provides or maintains access to nursing facility services needed in the community.
Procedure for Receiving Application Materials

The application materials, including instructions, format and necessary forms, are available at the following website: Nursing Home Moratorium Application Materials (http://www.health.state.mn.us/divs/fpc/moratoriumapp/)

Or upon email, written, or facsimile request to:

Mary Cahill
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, MN 55164-0900
Fax: (651) 215-9695
mary.cahill@state.mn.us

Review and Approval of Proposals

Proposals will be reviewed by a committee composed of organizations that represent consumers and providers of nursing home services; persons who provide engineering, building construction, or design services; and, state agencies involved in long term care issues, housing and finance. Applicants will have the opportunity to present their proposal, in person, to the Proposal Review Committee (Committee) prior to the Committee submitting comments and recommendations to the commissioner. Details on this meeting, including date, time and location will be made available to the contact person listed in each moratorium exception proposal. The commissioner of health will approve or disapprove project proposals based on criteria established in law and rule. The commissioner will make the final decision no later than March 26, 2018.

Questions Concerning the RFP

Any questions relating to the RFP process must be submitted by prospective applicants in writing via email, US mail, for facsimile to:

Mary Cahill
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, MN 55164-0900
Fax: (651) 215-9695
mary.cahill@state.mn.us

No answers will be provided in response to phone calls. Each question must cite the particular RFP page to which it refers. Copies of all questions and their answers will be provided to all prospective applicants who have requested application materials. Only responses in writing by
staff of the Minnesota Department of Health will be considered official. The closing date for the receipt of questions will be Friday, October 13, 2017.

Technical assistance in completing the application forms is available from LeadingAge of Minnesota, at (651) 645-4545, or Care Providers of Minnesota, at (952) 854-2844.

**Procedures for Submitting Proposals**

No proposals submitted by facsimile machine will be accepted.

**Six (6) written copies of the completed proposal must be received no later than 4:00 p.m. on Wednesday, December 13, 2017 by:**

**U.S. Mail Service:**
Susan Winkelmann  
Minnesota Department of Health  
Health Regulation Division  
P.O. Box 64900  
St. Paul, MN 55164

**Courier or Walk-In Service:**
Susan Winkelmann  
Minnesota Department of Health  
Health Regulation Division  
85 East Seventh Place, Room 220  
St. Paul, MN 55101
EXCEPTIONS TO THE NURSING HOME MORATORIUM APPLICATION INSTRUCTIONS

The purpose of these instructions is to provide assistance in preparing an application for an exception to the nursing home moratorium in accordance with *Minnesota Statutes* (2015), Sections 144A.071 – 144A.073, and *Rules of Minnesota*, Parts 4655.1070 to 4655.1098, Procedures for Exceptions to Nursing Home Bed Moratorium.

**THIS PROCESS DOES NOT ALLOW FOR THE ADDITION OF NEW LICENSED OR CERTIFIED BEDS IN ANY FACILITY.**

These instructions pertain only to exceptions that require review by the Commissioner of Health. For this exception to the moratorium process, *Minnesota Statutes*, §256B.434, subd. 4f allows projects with costs LESS than $1,580,945 to proceed without applying for an exception under this process.

It is suggested that these Application Instructions, including the appendices, be reviewed prior to writing the application. This will provide guidance regarding the content and format necessary to prepare a complete Exception to the Nursing Home Moratorium application. Please review the section Criteria for Review of Exceptions to the Nursing Home Moratorium Projects to make certain your project qualifies and that you submit all required information. See Appendix F for frequent Questions and Answers.

** The Minnesota Department of Health (MDH) requests that prospective applicants complete a Letter of Intent and submit it to MDH by October 13, 2017. (Use form provided on web in application materials). *See Appendix E for Moratorium Application Review Process Time Line.*

**Completed Application Includes:**

A complete application includes all information required on Items I through VII below and the information in the Criteria for Review shown below. **ALL PAGES ON THE FINAL APPLICATION MUST BE NUMBERED.**

I. **Face Sheet** (use form provided on the web in the application materials)

   Complete all items on the Face Sheet

II. **Project Information** (use form provided on the web in the application materials)

   Complete all items.
III. Application Narrative

Please label pages as “Application Narrative” and address each item described below completely. Where a description is requested, please state details of specific methods, activities, etc. A statement that something is needed or will be done is not adequate.

A. Problem Description

Each proposal must include a description of a situation(s) or condition(s) which significantly contributes to the need for the proposed exception. Explain what the problem is, why it is a problem, and how the problem relates to any of the following:

- The extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults;

- The extent to which the project provides for the complete replacement of an outdated physical plant;

- The extent to which the project results in a reduction of nursing facility beds in an area that has a relatively high number of beds per thousand occupied by persons age 85 and over;

- The extent to which the project provides or maintains access to nursing facility services needed in the community;

- The extent to which the project produces improvements in health; safety, including life safety code corrections; quality of life; and privacy of resident. For example, the extent to which the project improves conditions that affect the comfort or quality of life of residents in a facility or the ability of the facility to provide efficient care, such as a relatively high number of residents in a room; inadequate lighting or ventilation; poor access to bathing or toilet facilities; a lack of available ancillary space for dining rooms, or rooms used for other activities; problems relating to heating, cooling, or energy efficiency; inefficient location of nursing stations; narrow corridors; or other provisions contained in the licensure and certification rules;

- The extent to which the project integrates the latest technology and design features in a way that improves the resident experience and improves the working environment for employees; and/or

- The extent to which, under the current facility ownership and management, the provider has shown the ability to provide good quality of care based on health-related findings on certification surveys, quality indicator scores, and quality-of-life scores, including those from the Minnesota nursing home report card.
B. **Proposed Project**

Provide a concise overview of the proposed project, a brief statement describing what it is you want to do.

Explain why the proposed project is the best solution to the identified problem. What is the desired accomplishment(s) to alleviate or improve the situation(s) described in the problem statement(s)?

The statute requires that all applications for exceptions to the nursing home moratorium submitted in response to Commissioner’s Request for Proposals must address renovation, replacement, conversion, upgrading, or addition as those terms are defined in *Minnesota Statutes* 144A.073, subd.1 (see Appendix A1). **No other proposals can be accepted.**

**NOTE:** If you intend to request rate adjustments in phases for the proposed project, this must be stated CLEARLY in the proposal narrative portion of the application. The completed work must meet the definition of phased project in statute to qualify for a rate adjustment (see Minnesota Statutes, 144A.073, subdivision 1 (g)). Applications that do not identify phases will not be allowed to have rate adjustments in phases when construction is completed.

C. **Assessment of Continued/Continuing Need**

Explain the extent to which the sustainability of the nursing facility can be demonstrated based on the need for services in the area and the proposed financing of the project:

1. Identify the geographic area to be served.
2. Identify the specific unmet need(s) as it relates to the problem statement(s). Note that this includes, but is not limited to, unavailable service and/or un-served or under-served populations, the elderly population in the service area, other services available in the area.
3. Describe the continuing need for facility care in the community and adjacent communities.
4. Provide the specific supporting data and describe the methodology(ies) used to identify this (these) need(s).

D. **For Each Project Proposed, Include the Following:**

1. Include schematic drawings (2 copies only) and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation.
2. Describe the environmental conditions in the facility that are reviewed under MN rules, Part 4655.1084, subpart 10, and any proposed changes in those conditions (see Appendix B).
3. Include a cost estimate, prepared by a contractor or architect and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by Item B, including costs of buildings, attached fixtures, land, land improvements, construction site preparation, equipment, technology, and related soft costs, including: sales tax on materials; contractor’s overhead and profit; architect and engineering fees; construction period interest; permits; zoning and construction financing; feasibility, economic, and demographic studies; legal, accounting, and consulting fees related to the creation of the development; and cost of designing the improvements (see Appendices D and G).

4. Provide current estimated long-term financing costs of the proposal, including amount and sources of money, bond fund reserve, or other similar reserves as required under the proposed financing mechanisms, annual payments scheduled, interest rates, length of term, and closing costs and fees. If applicable, also include estimated changes in real estate taxes and/or annual operating costs.

5. Include the effects of the proposed project on state share of MA costs for community-based services, nursing services, and housing in institutional and non-institutional settings.

6. For proposals involving replacement of all or part of a facility, provide the property identification number and general description of the proposed location of a replacement facility.

7. Provide an estimate of costs of renovations as an alternative to replacement, or of replacement as an alternative to renovation and briefly explain why the proposer chose replacement rather than renovation or renovation rather than replacement.

8. Include an estimated beginning date of construction for renovation and replacements and the proposed timetable for completion of construction.

9. The proposal review process requires review of any licensure orders, certification deficiencies, substantiated complaints or sanctions issued during the 24 months prior to submission of the proposal. Include a statement concerning any of the aforementioned that are germane to this proposal and provide comment /clarification on others received in the 24 month period.

10. Include the proposed relocation plan for current residents if beds are to be closed so that the Department of Human Services can estimate the total costs of a proposal.
E. Additional Information

Include all additional information that you believe provides evidence of the need for the proposed project (see “Criteria for Award” section).

IV. Assurances and Agreements (use form provided on web in the application materials)

By signing and submitting the Assurances and Agreements pages, the applicant facility is making the assurances to the Minnesota Department of Health required in federal and state standards. These items need not be addressed in any other manner. Information requested in these assurances will not be required until after an application is approved. Provide original signature, title, and the date the form was signed.

V. Cost Justification, see Appendices D and G

VI. Questions Regarding Application Process

Any questions relating to the RFP process must be submitted by prospective applicants in writing to:

Mary Cahill
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, MN 55164-0900
Fax: (651) 215-9695
mary.cahill@state.mn.us

NO ANSWERS WILL BE PROVIDED IN RESPONSE TO PHONE CALLS. Each question must cite the particular application page to which it refers. Copies of all questions and their answers will be provided to all prospective applicants who have requested Application materials. Only responses in writing by Minnesota Department of Health staff will be considered official. The closing date for the receipt of questions will be 4:00 p.m., Friday, October 13, 2017.

Technical assistance in completing the RFP application forms is available from Care Providers of Minnesota at (952) 854-2844, or from LeadingAge of Minnesota at (651) 645-4545.

VII. Deadline

No proposals submitted by facsimile machine will be accepted.
Please submit six written copies of the completed proposal by **4:00 p.m., Wednesday, December 13, 2017.** Submit copies to Susan Winkelmann.

**U.S. Mail Services**
Susan Winkelmann
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, Minnesota 55164-0900

**Courier or Walk-In Service**
Susan Winkelmann
Minnesota Department of Health
Health Regulation Division
85 East Seventh Place, Room 220
St. Paul, Minnesota 55101

*Applications received after the deadline will not be reviewed.*
LETTER OF INTENT TO SUBMIT MORATORIUM EXCEPTION APPLICATION

In order to assist us in planning for staff and Proposal Review Committee time necessary to review the moratorium applications received, MDH is requesting that any facility that is likely to submit an application to please submit this Letter of Intent by October 13, 2017. The Letter of Intent does not obligate the facility to submit a moratorium application. It is being requested only to assist us in planning for reviews based on an anticipated number of applications.

Please fax or email this Letter of Intent to:
Mary Cahill, (651) 215-9695, mary.cahill@state.mn.us

Your cooperation is sincerely appreciated.

Name of Facility:

____________________________________________________

Address of Facility:

____________________________________________________

____________________________________________________

Name and phone number of submitter:

____________________________________________________

Type of project anticipated (check all that apply):

☐ Renovation
☐ Replacement
☐ Conversion
☐ Upgrading
☐ Relocation
☐ Addition
FACE SHEET
APPLICATION FOR
EXCEPTION TO THE NURSING HOME MORATORIUM

1. APPLICANT FACILITY (with which contract is to be executed)
   Legal Name: __________________________________________________________
   Address: ____________________________________________________________
   Phone: (___)________________________ Fax: (___)__________________________
   Email: __________________________________________________________________

2. ADMINISTRATOR/DIRECTOR OF APPLICANT FACILITY
   Name/Title: ____________________________________________________________
   Address: ____________________________________________________________
   Phone: (___)________________________ Fax: (___)__________________________
   Email: __________________________________________________________________

3. CONTACT PERSON FOR INFORMATION REGARDING
   APPLICATION PROCESS
   Name/Title: ____________________________________________________________
   Address: ____________________________________________________________
   Phone: (___)________________________ Fax: (___)__________________________
   Email: __________________________________________________________________
4. CORPORATE/OPERATING AGENCY (if different from number 2.)
Name/Title: ________________________________
Address: ________________________________
Phone: (____)_________________________ Fax: (____)_________________________
Email ________________________________

5. CONTACT PERSON FOR CORPORATE/OPERATING AGENCY (if different from number 2.)
Name/Title: ________________________________
Address: ________________________________
Phone: (____)_________________________ Fax: (____)_________________________
Email ________________________________

6. FISCAL MANAGEMENT OFFICER OF APPLICANT FACILITY
Name/Title: ________________________________
Address: ________________________________
Phone: (____)_________________________ Fax: (____)_________________________
Email ________________________________

I certify that the knowledge contained herein is true and accurate to the best of my knowledge and that I submit this application on behalf of the applicant facility.

Signature of Director of Applicant Facility: ________________________________

Title: ________________________________

Date: ________________________________
EXCEPTION TO THE NURSING HOME MORATORIUM

PROJECT INFORMATION

APPLICANT FACILITY: ____________________________________________

CITY AND COUNTY: ____________________________________________

Project is for: (check all that apply)

☐ Conversion

☐ Relocation

☐ Renovation

☐ Replacement

☐ Upgrading

☐ Addition

ESTIMATE OF TOTAL COSTS FOR PROJECT: __________________________

SERVICE AREA (City(s) and County(s)): ____________________________

SOCIAL SECURITY OR MN TAX I.D. #: _______________________________

Official Use Only

Fiscal Control No.: ____________________________

Date Received: ____________________________

Time Received: ____________________________
ASSURANCES AND AGREEMENTS

BY SIGNATURE, THE AUTHORIZED OFFICIAL AGREES AND ASSURES THAT:

1. Services will be provided in accordance with state and federal laws, rules, and policies.

2. The facility will provide services in keeping with program standards of the Minnesota Department of Health.

3. The proposer of a renovation, replacement, conversion, or upgrading that is approved by the Commissioner of Health will submit preliminary plans as defined in part 4658.4010, before drawing final plans.

4. The agency will comply with all standards relating to fiscal accountability that apply to the Minnesota Departments of Health and Human Services.

A. Budget revisions with justification will be submitted to the Commissioner of Health for prior approval whenever:

   1. Changes in approved projects for renovation, replacement, relocation, conversion, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according the Minnesota Rules, part 4658.4025.

   2. If the commissioner approved the reported changes in a project, a change order permitting the changes will be issued. The issuance of a change order does not alter the allowable costs as estimated in Minnesota Rules, part 4655.1084.

   3. The proposer will immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.

   4. On completion of the proposed project, and prior to final clearance for use, the proposer will submit to the Commissioner of Health, with a copy to the Commissioner of Human Services, a final statement of costs as directed by Minn. Stat. § 144A.071, subdivision 2.

B. Project financial management systems will provide for:

   1. Accurate, current, and complete disclosure of the financial status of the project;

   2. Effective control over the accountability for all funds, property, and other assets. Project applicants are to adequately safeguard such assets and assure that they are used solely for authorized purposes;
3. Comparison of actual obligations with budget amounts for each activity;

4. Accounting records which are supported by source documentation; and

5. Audits which will be made by or at the direction of the Minnesota Department of Human Services.

Application is hereby made for approval of an exception to the nursing home moratorium. By signature, the Authorized Official agrees and has the authority to agree to comply with conditions and reporting requirements, consistent with applicable Minnesota Department of health Rules and Minnesota Statutes. In addition, by signature below, the Authorized Official assures full compliance with all items stated herein.

AUTHORIZED OFFICIAL: __________________________________________________________

PRINT: __________________________________________________________

TITLE: __________________________________________________________

DATE: __________________________________________________________
CRITERIA FOR REVIEW OF EXCEPTION TO THE NURSING HOME MORATORIUM PROJECTS

I. Application is in accordance with Minnesota Statutes 144A.073, subd. 3 and Minnesota Rules, Parts 4655.1070 to 4655.1098.

A. Applicant is a nursing home, certified boarding care home, or attached hospital.

B. Proposal was received by the Commissioner of Health before the deadline.

C. Proposal meets the definition of:
   1. Renovation
   2. Replacement
   3. Conversion
   4. Upgrading
   5. Relocation
   6. Addition

   IF AN APPLICATION DOES NOT MEET THE ABOVE REQUIREMENTS, IT WILL RECEIVE NO FURTHER REVIEW

II. Application must meet the following procedural requirements. Use this as checklist to assure your application contains all required information.

A. All pages are numbered.

B. Submitted with required content:
   1. Completed Face Sheet and Project Information Forms
   2. Problem description.
   3. Proposed project.
   4. Assessment of continued/continuing need.
   5. Includes schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation.
6. Includes a cost estimate, prepared by a contractor or architect and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by Item 5 above, including costs of buildings, attached fixtures, land improvements, construction site preparation, and related soft costs.

7. Provides current estimated long-term financing costs of the proposal, including amount and sources of money, bond fund reserve, or other similar reserves as required under the proposed financing mechanisms, annual payments scheduled, interest rates, length of term, closing costs and fees, and insurance costs that are directly related to the building, attached fixtures, land, land improvements, and building site preparation.

8. States the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented.

9. States any changes in annual operating costs resulting from this proposal.

10. Describes the environmental conditions in the facility that are reviewed under MN Rules, Part 4655.1084, subpart 10, and any proposed changes in those conditions.

11. For proposals involving replacement of all or part of a facility, provides the property identification number and general description of the proposed location of a replacement facility.

12. Provides an estimate of the costs of renovation as an alternative to replacement, or of replacement as an alternative to renovation.

13. Includes an estimated beginning date of construction for renovations and replacements and the proposed timetable for completion of construction.


15. Includes a statement concerning any licensure or certification orders, deficiencies, or substantiated complaints or sanctions during the 24 months prior to the submission of the proposal.

16. Proposed relocation plan for residents, if applicable.

17. If applicable, clearly stating intent to request rate adjustments in phases.
CRITERIA FOR AWARD

A. Procedural requirements for application are met (see Section II above).

B. The extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults.

C. The extent to which the project provides for the complete replacement of an outdated physical plant.

D. The proposal’s long-term effects on state costs, including the cost estimate of the project according to Minn. Stat. §144A.071, subdivision 5a.

E. The extent to which the project results in a reduction of nursing facility beds in an area that has a relatively high number of beds per thousand occupied by persons age 85 and over, using data published according to requirements in Minnesota Statutes 144A.351 and available in the most current version of the Minnesota Department of Human Services report “2015 Long-term Services and Supports: Nursing Facilities.”

F. The extent to which the project produces improvements in health; safety, including life safety code corrections; quality of life; and privacy of residents.

G. The extent to which, under the current facility ownership and management, the provider has shown the ability to provide good quality of care based on health-related findings, as evidenced by the two most recent state agency certification surveys and any substantiated complaints within the previous 24 months and the provider’s response to those surveys and complaints, quality indicator scores, and quality-of-life scores, including those from the Minnesota nursing home report card.

H. The extent to which the project integrates the latest technology and design features in a way that improves the resident experience and improves the working environment for employees.

I. The extent to which the sustainability of the nursing facility can be demonstrated based on the need for services in the area and the proposed financing of the project.

J. The extent to which the project provides or maintains access to nursing facility services in the community.
APPENDIX D

Cost Estimate Guidelines/Methodology for the Nursing Home Moratorium Exceptions Process

Replacement, Remodeling, and Bed Transfer Proposals:

- Method for estimating Proposal Cost:
  - Use method in 256B.434, subdivision 4f, for rate setting and reasonableness principles as in past Moratorium rounds.

- For Property costs, the proposer shall:
  - Estimate construction cost of project showing amounts for buildings, equipment, technology, capitalized interest, debt service reserve funds, financing and issuing, separately;
  - Historical cost of estimated asset disposals;
  - Determine amount to be financed with debt versus equity, including details of the proposed funding mechanism already arranged or being considered;
  - Use interest rate as provided in Minnesota Statutes, § 144A.071, subdivision 5a.;
  - Determine term of debt;
  - Indicate single bed room election and bed configuration after project completion; and
  - Anticipated public grants or insurance proceeds.

- Estimate change in real estate taxes as a result of this proposal.

- Estimate change in annual operating costs as a result of this proposal.
APPENDIX E

Exception to Moratorium Application Review Process Timeline

July 17, 2017
Request for Proposals for Moratorium Exceptions Projects published in the State Register.

October 13, 2017
Letter of Intent to submit and any written questions submitted to The Department of Health.

December 13, 2017
Applications must be received by Darcy Miner for the Commissioner of Health.

December 14, 2017
Technical staff review by MDH/DHS staff to determine application compliance. Copies of qualified proposals forwarded to MDH, Health Regulation Division, Engineering Services staff and DHS, Nursing Facility Rates and Policy staff.

December 14, 2017 – January 12, 2018
Completed applications reviewed for technical merit, staff data collection and determination of state share costs. Qualified proposals forwarded to Proposal Review Committee.

Week of January 15, 2018
Completed staff review summary and collected data sent to Proposal Review Committee.

February 6, 2018 (Tentative Date) – Time/Location to be Determined.
Public Presentation Meeting. Applicants present proposal and address questions from the Proposal Review Committee. The Proposal Review Committee meets after the presentations, in a non-public meeting to discuss proposals and develops and submits it recommendations and rankings to the Commissioner of Health. Information on this Public Presentation meeting will be sent to the contact person in each application by December 29, 2017.

No later than February 16, 2018
The Commissioner of Health shall receive from the Proposal Review Committee a written recommendation for approval or rejection of each proposal based on the evaluation, comparison and ranking of all completed proposals.

No later than March 16, 2018
The Commissioner of Health shall decide to approve or disapprove each proposal.
No later than March 26, 2018

The Commissioner of Health shall send a written notice of the decisions to approve or disapprove each proposal to the respective applicants with a statement of reasons for the decisions.
APPENDIX F

QUESTIONS AND ANSWERS
ON THE COMPETITIVE MORATORIUM EXCEPTIONS PROCESS

There are a large number of exceptions to the moratorium on the licensure and certification of nursing home beds in Minnesota. It is in your interest to know them well, and to know how your facility stands in reference to them. The general reference in statute is Minn. Stat. §144A.071, especially subdivisions 3 & 4a which enumerate exceptions, and Minn. Stat. §144.073, which defines the competitive moratorium exceptions process authorized under Minn. Stat. §144A.071, subd. 4a, clause (c) and implemented in Minnesota Rules, Parts 4655.1070 to 4655.1098. This is technical information, and we have tried to distill some of the more common questions or issues for you here, in more or less ordinary English.

PROCEDURES

1. Are past proposals available for review? If so, where?

The proposals from the most recent round of moratorium exceptions are available for review at the offices of the Minnesota Department of Health, Health Regulation Division. Office hours are 8:00 a.m. to 4:30 p.m. Monday through Friday. The Health Regulation Division offices are located at the Golden Rule Building, 85 East Seventh Place, St. Paul, Minnesota on the 3rd floor. Please call ahead to (651) 201-3701 to insure the files are available and schedule a review time.

2. Who can I call at the State with questions I have on this application process?

Any questions relating to the RFP process must be submitted IN WRITING to Mary Cahill, Minnesota Department of Health, Health Regulation Division, P.O Box 64900 St. Paul, Minnesota 56164-0900, or email mary.cahill@state.mn.us. By accepting only written questions, we can assure that the answer to any question we receive is included in the Question and Answer mailings, so that each prospective applicant has access to the same information. The applicant is to provide an email address for responses.

PROJECT DEFINITIONS

3. Does a project need special approval through the competitive exceptions process if it makes no changes in bed configurations or rooms? What is the definition of a competitive moratorium exceptions project?

Basically the answer is yes: the moratorium is meant to control both the number and licensure or certification status of beds, and also Medical Assistance (MA) expenditures. Under current law, facilities can make changes in the configuration of beds under conditions defined in statutes. Proposals for bed reconfiguration, day space, dining rooms, administrative wings, and so forth, must go through the Moratorium Exceptions process IF THE PROVIDER WANTS TO SEEK REIMBURSEMENT FOR COSTS THAT EXCEED THE MAXIMUM SATUTORY THRESHOLD, which is currently estimated at $1,580,945. The provider must, of course, comply with all existing regulations and laws governing buildings used to deliver long-term care services.
A (rough) general definition of a moratorium exceptions project that must go through the process established in Minn. Stat. §144A.071 subd. 4a, item (c) and defined at Minn. Stat. §144A.073 is that it is one which:

is a renovation, replacement, relocation, upgrade, addition, or conversion of a facility that is used to deliver long-term care; and/or

costs more than the maximum threshold.

Facilities are allowed to upgrade Certified Boarding Care Homes to Nursing Homes without receiving an exception to the moratorium as long as the total cost does not exceed $200,000 or 10 percent of the appraised value of the facility, whichever is less. (PLEASE NOTE!! The limit of $200,000 or 10% of the appraised value of the facility for Upgrading Beds was not increased by the Legislature.) Upgrading that exceeds these costs must apply for an Exception.

Total Replacements must go through the competitive exceptions process regardless of the total cost of the project.

This interpretation of the statute is only meant to help guide proposers; it is not a substitute for the law itself, and any serious proposer should look carefully at the law to determine if the competitive exceptions process is appropriate for them.

4. **If a project is not selected in this round of applications, is it automatically eligible for future consideration in other rounds?**

Not automatically. Such projects must be re-submitted with costs and design updated as necessary. Facilities may apply for exceptions in each RFP round regardless of their successes or failures in previous rounds.

5. **If a project can be divided into several parts or phases, do they all have to be part of one proposal? Can they be submitted as separate proposals?**

Generally, the proposals can be structured in whatever way is most advantageous to the facility. It is permissible to divide a project into distinct phases. Each phase must be able to be cleared by the MN Department of Health for occupancy. Without such clearance, there is no phase and no rate adjustment for a phase.

Additionally, if a project is not identified in a proposal as being completed in distinct phases, rate adjustments will not be implemented in phases as each part of a project is completed.

6. **Can rooms be moved within a nursing facility outside of the competitive exceptions process?**

Yes, assuming that the Department of Health approves the preliminary drawings and that the project meets other applicable regulations (for example, those in Minn. Stat., chapter 144A and Minn. Rules, Chapter 4658). Under Minn. Stat. §144A.071, subd. 4a, clause (b), beds can be moved within a facility provided that the total costs of associated remodeling do not exceed the maximum threshold. A facility may not seek reimbursement beyond the maximum threshold except through the Moratorium Exception Process.
7. **Are furniture or other movable equipment subject to the exceptions laws?**

Yes. Moveable equipment, such as furniture, and technology are considered cost items for the purpose of this exceptions process.

8. **Do current buildings have to be demolished if they will no longer be used for nursing care?**

No. Many successful proposals in the past have developed other uses for these older buildings. The key as to whether the old building may continue to be reimbursable under the reimbursement rule is whether it is necessary, and directly related to resident care, and whether its cost is within the replacement cost new investment per bed limitation for the new purpose.

9. **What are “community alternatives”?**

“Community alternatives” include every possible setting EXCEPT for hospitals and nursing homes. It includes certified boarding care homes, uncertified boarding care homes, board and lodgings, board and lodgings with special services, supervised living facilities, housing with services establishments, assisted living, adult foster care, adult day care, and home care.

10. **Has MDH identified counties with not enough alternatives to nursing homes?**

No. MDH knows where nursing homes and registered housing with services establishments are located, and where home care licenses are issued. The Minnesota Department of Human Services (DHS) gathers local information about the current capacity and gaps in services and housing options to support older persons (and starting in 2012 all persons with disabilities, and adults and children living with mental health conditions) in Minnesota. Since 2001 DHS has worked with all counties, managed care organizations, and tribal nations with administrative or contract authority to conduct assessment and support planning in Minnesota to gather this information. Data is gathered through a biennial survey of the local capacity of the services system to support current residents, including any significant “gaps” in long-term services or supports. Results of this survey and related efforts are published as a series of reports on the DHS Gaps Analysis Study. Reports include a statewide summary and individual reports by geographic area. Highlights of the findings specific to services are published in the Status of Long-Term services and Supports legislative report. All of these reports are available online from the DHS Gaps Analysis Study website (http://mn.gov/dhs/gaps-analysis/).

You may wish to review this information in developing your proposal. Some of the moratorium exceptions projects may include developing or coordinating with alternatives to nursing home care. Information on those alternatives should be included in the moratorium exception application (for example, there are no alternatives in the community, this is the only nursing home in the area, part of the project is developing an assisted living setting or adding adult day care).
11. Will the commissioner be using any additional information besides the most recent Distribution of Beds study regarding where beds are distributed?

In accordance with Minn. Stat. §144A.073, subd. 4 item 3, the commissioner will be using the most recent study available, [2015 Long-Term Services and Supports: Nursing Facilities (PDF)](https://mn.gov/dhs/assets/2015_long_term_services_and_supports_nursing_facilities_tcm1053-166448.pdf) The 2017 report is currently undergoing internal review at the MN Department of Human Services and when a publication date is known a link will be posted on the MDH website hosting the application materials.

12. Are any of the approval criteria considered more important than the others?

Each of the approval criteria will be given equal importance.

13. Do I need to attach a copy of my most recent survey form to the application?

No. MDH has that information and will provide it to the Proposal Review Committee and the commissioner. You will want to consider the results of that survey, though, in developing your proposal. For example, if you had a deficiency last year based on physical plant conditions, and those conditions are not addressed in your proposal, the Proposal Review Committee and the commissioner will question why they were not addressed.

14. Applicants must fill out a problem statement as part of the application packet. Will surveyors use that problem statement to look for deficiencies at our next survey?

No. Surveyors are probably already aware of the conditions at your facility that you are looking to improve by doing a moratorium exceptions project.

15. Can a nursing home submit a project for the current moratorium exception round even though the project has started?

A facility may submit a project proposal that is underway and not yet completed. However, the submission does not guarantee approval as the process is competitive. Proposals for projects already complete will not be considered.

16. We are working with a client that is just starting to consider a possible moratorium exception application and likely will not make the decision prior to when the Letter of Intent (LOI) is due. Should the facility file a LOI by the due date if a decision has not been made? Is the facility penalized if it chooses not to submit a proposal but a LOI was sent? And, vice versa, if a facility does not file a LOI but then decides to submit is there a penalty?

MDH has asked for LOIs for purposes of getting a sense of the potential number of applicants so we can plan for staff accordingly. There is no penalty for sending an LOI and not submitting an application, or submitting an application and not send an LOI. We prefer that you err on the side of submission. It is better to plan for 15 applications and receive 5 than to plan for 5 and receive 15.
17. **Can a facility apply for the moratorium exception and move some of its skilled beds, but not all of its skilled beds, to another site in the same community?**

Yes, a partial relocation and replacement is permitted in the process. However, a separate approval must also be requested and received for the bed relocation.

18. **If a facility can apply to move some of its beds to another site in the same community, would this be considered a replacement or a relocation facility?**

This would be considered a new facility and would require a new certification from CMS. It could be submitted as a moratorium exception proposal as a replacement facility. The facility is strongly advised to consult DHS reimbursement staff while researching the proposal cost estimates. The facility would also need to be cognizant of the requirements for new certification by the Centers for Medicare and Medicaid Services.

19. **The RFP/application for Exception to the Nursing Home Moratorium is only for allowing additional beds to be added to a nursing home, correct?**

No. The moratorium prohibits additional licensure of beds to the overall system capacity. The only way that additional licensed beds could be added to the system capacity would be through specific legislation permitting this. A nursing home may acquire additional beds, but it would need to acquire those from some other provider. The operating costs of those purchased beds would need to be determined “cost neutral” to the Medical Assistance budget. This can be done through the cost neutral bed relocation process, **MS 144A.073, subd. 3 (c)** ([https://www.revisor.mn.gov/statutes/?id=144A.073](https://www.revisor.mn.gov/statutes/?id=144A.073))

Acquired beds could be added to an existing facility as part of a moratorium exceptions project. Typically nursing facilities have delicensed beds as part of the proposal. Again, the costs associated with the purchased beds would affect the reimbursement for those beds and the project overall.

20. **Are there risks related to completing a large capital project while the state is considering reforming the property rate setting system?**

A law was passed in the 2015 legislative session requiring that the Department of Human Services conduct a study on nursing facility property rate setting, to be completed by March 1, 2016. DHS was unable to meet the required timeframes for this report and expects the report to be submitted before January 1, 2017. The findings of the study, to include a new rate setting method, are to be reported to the legislative committees involved with the nursing facility payment rates with a goal of implementing a new system effective January 1, 2017. At this time, there is no way of knowing what the system will be or if it will cause any short-term or long-term rate effects on proposals selected in the upcoming moratorium exception process.
PHYSICAL PLANT

21. Many of the regulations that are cited in the competitive exceptions process rule refer to the standards for new construction. How should these be applied to proposals for renovations, conversions, or upgrades?

_Minnesota Rules_, Part 4658.3005, subpart 2, states that “compliance with the standards for new construction for existing facilities must be for the areas involved and to the extent that the existing structure will permit.” Proposals will be reviewed on an individual basis to determine to what extent this will be required, but you should aim at new construction standards if possible.

22. How detailed should the preliminary drawings submitted with the applications be?

The preliminary drawings should be as complete as needed to give you and the reviewers adequate information to make a decision about the proposal. This will depend to some extent on the type and scale of the project. However, the rule requires that the drawings be prepared by a registered architect, and it is recommended that these drawings be done to scale. It is generally in your interest to make your drawings as clear and complete as possible to describe your proposal accurately.

23. How important is it that the blueprints we submit are readable?

The MDH Engineering Section only needs to be able to read the areas affected by your proposed project, or the areas that are the basis for your project. Those areas, and the measurements for those areas, must be readable. Blueprints for other areas of the facility do not need to be as clear.

24. When replacements or additions are made (involving the construction of new physical plant), do these projects have to conform to the regulations governing new construction in all respects?

Generally, yes. The new wings or new buildings will be required to comply with the standards for new construction.

25. In a proposed project, is it mandatory to place a nursing station on each floor? Does it have to be within 120 feet of all rooms, e.g., if a minor change is made to a couple remote rooms?

If the project upgrades a physical plant to nursing home standards, or builds a new wing on a nursing home, replaces a facility, or extensively remolds a nursing home, it is necessary to have a nursing station on each floor. If beds are currently licensed at the Boarding Care level, and will remain so, it is not necessary to build a new nursing station. Minnesota Rules, part 4658.4105 (which replaced part 4660.1420) states:

_Subp. 8. Distance from nurses station._ Bedrooms must be located not more than 140 feet from the nurse’s station.
26. **For projects involving waivered features, will it be possible to construct rooms or structures that will also require waivers?**

Generally, no. New elements constructed as part of a project must meet new construction standards, i.e., cannot require waivers. If some elements of the room(s) are now waivered, and are not changed due to the project, it will generally be possible to maintain the waiver if it would have been maintained in any case.

27. **In a new wing or building, how many single rooms are required?**

At least five percent of the rooms in a new wing or building must be single rooms with private toilet rooms (MN Rules, part 4658.4100). In the case of a new wing, the five percent is calculated in terms of the new rooms added, not in terms of the total number of rooms in the facility including the old ones.

28. **Do projects that do not construct facility replacements or additions involving bedrooms have to comply with the single room requirement?**

No. As long as the rooms in the old facility are only remodeled as part of a project, it is not required that the facility provide the five percent single rooms. This assumes that no new beds are added and that the facility’s renovations do not involve adding new structures.

29. **What do I do about conflicts between the State Building Code and local building codes?**

If those conflicts are identified early on in the application process, the MDH Engineering Section and the MN Department of Labor and Industry building code staff can review the conflicts and generally reach a compromise. Contact Jerry Norman, MN Dept. of Labor and Industry, 651-284-5872 or gerald.norman@state.mn.us.
APPENDIX G

COST ANALYSIS QUESTIONS AND ANSWERS ON THE COMPETITIVE MORATORIUM EXCEPTIONS PROCESS

1. On what basis will approved projects have rates adjusted to reflect expenditures?

Upon completion of a construction project which exceeds the minimum threshold or is an approved moratorium exception project, the facility will request a revised property rate, and, based on this request, the Department of Human Services will establish the property rate to reflect the project allowable debt, allowable interest expenses, and allowable property costs. The new rates will be effective the first day of the month following the month in which the project is completed. The completion date is the date a clearance is issued by MDH, or if none is required, the first day when the new plant is available for use.

2. Under what circumstances would added debt be allowed if it exceeds appraised value?

Debt incurred as part of a moratorium exception project cannot exceed the historical costs of the assets acquired. These assets include buildings, attached fixtures, and land improvements. Debt incurred can exceed the cost of assets acquired if the excess is for soft costs (e.g., financing costs, legal fees, title searches), and debt reserve funds. There are limits on the total amount that can be allowed related to some of these items. Please refer to Minnesota Statutes, Chapter 256B, Section 431, subdivision 17a, and for debt on land see Minnesota Rule 9549.0060, subpart 5, item A (1).

3. Should cost estimates reflect expected inflation?

No. Costs for either property or changes in operating costs should be projected in terms of current dollars, irrespective of projected inflation.

4. Will the current authorization be spent over a biennium, or entirely in the next year?

The $1,227,867 includes an appropriation of $1,000,000 authorized by the 2016 Legislature, the balance is the amount carried-forward from what was unspent in the previous round. The authorization refers to additional yearly state MA cost increases after all approved projects are completed.

5. Will there be additional monies authorized for future exceptions projects?

Additional funding after 6/30/18 is dependent upon future legislative appropriations.

6. If a facility has more or less MA residents, and therefore more or less MA funding, how will that affect its final ranking? Is there an advantage to facilities with low MA proportions?

The impact on MA cost is one criterion for evaluating proposals. However, the proposals will all have to be evaluated by the other criteria as well. Therefore, even though the low MA cost of a
proposal is an advantage, it does not by itself guarantee selection, nor does high MA cost guarantee rejection.

7. **How many proposals can be funded?**

   This cannot be determined in advance. The number eventually selected will depend on the characteristics and quality of the proposals actually received.

8. **Where do we include the mandated information for estimating property costs for replacement or remodeling projects?**

   All cost related items, including construction costs, can be included in the cost reporting section.

9. **Where are the costs for completing the moratorium exception application to be reported (architects, attorneys, etc)?**

   When determining the cost of the facility’s project, these costs will be capitalized and included as soft costs when determining the historical cost of the building addition.

   If a facility’s moratorium exception project is approved, these costs will be included as a building cost when determining their building project rate adjustment.

10. **What additional information will facilities that are transferring or de-licensing beds need to supply for purposes of calculating the community alternative savings estimate?**

    The following information will need to be supplied:

    - The number of beds to be transferred and/or de-licensed.
    - The facility’s historic community placement level for the last quarter. If a full year’s worth of placement is a better representation, that information may be supplied.
    - The facility’s estimate of additional community placements.
    - If the transferring facility is below 96% occupancy, estimated annual leave days.

    Information regarding the facility occupancy percentage, MA occupancy, total resident days, weighted average operating rate, number of licensed beds, and average number of resident days will be taken from the facility’s cost report.

11. **I am thinking of adding a new unit to my facility, outside of my moratorium exceptions application, and expect my costs to change because of that new unit. Do I include those costs in my application?**

    No, just include the costs due to the moratorium exceptions proposal.

12. **How are beds on the layaway program to be accounted for in a proposal?**

    If the space the beds had occupied is going to be used for nursing facility services after the project is completed, the costs of the project related to that space is counted as allowable.
the space will not be used for nursing facility services in the future, an adjustment will be made to the rate for the amount of space not used for nursing facility services.

The beds on lay away are not used to compute the capacity days divisor for the rental per diem. If the beds are removed from lay away at a later date, the per diem amount of the rental per diem will decrease because of the greater number of capacity days. Beds that are unoccupied, but not put on lay away, remain in the calculation of the rental per diem divisor.

13. **How do I allocate costs on my application, since I have a combined project (for example, nursing home renovations and adding an assisted living unit)? Do I have a contractor divide out the costs?**

For purposes of the application, DHS just needs the nursing home costs. Your contractor can be instrumental in determining these allocations. You would explain in your proposal how you allocated the costs of the two parts of the project.

14. **Can changes in operating costs be included in the moratorium exception proposal, and if so, how should they be reported?**

Operating cost changes can be included in the proposal. Amounts should be based on facility’s budget methodology and detailed by type of operating cost. The rate effect of proposed operating cost changes will be based on the facility’s current operating rate at the case-mix level with a weight of 1.0 (DDF) and the DDF operating rate if their rates were fully rebased. The projected operating cost increases will be multiplied by the ratio of the current and fully rebased DDF rates and then divided by the resident days associated with the type of operating cost (direct care, other care-related, or other operating) from the most recent cost report. Moratorium proposals that include operating cost increases are one proposal that cannot be separated. The proposal will be either approved or disapproved in totality.

15. **In the case of relocation of beds, how is the rate established for the receiving facility? What costs should be included in the moratorium exception proposal?**

The starting point is the method described in Minnesota Statutes, Chapter 256B.441, subdivision 60: Method for determining budget-neutral nursing facility rates for relocated beds. Contact Alicia Harrington Alicia.Harrington@state.mn.us with DHS for the budget-neutral relocation rate for the receiving facility. A moratorium exception proposal is not required if the facility is not requesting additional reimbursement beyond the budget-neutral relocation rate. In this case, a budget-neutral relocation request should be submitted to the Minnesota Department of Health per Minnesota Statutes, Chapter 144A.073, subdivision 3c.

If additional reimbursement beyond the cost-neutral relocation rate is desired for the property or operating costs for the receiving facility, this should be detailed in the moratorium exception proposal. Letters of comment for the relocation of the beds from the applicable counties should be included in the proposal at the time of submission.

The beds that are relocated are removed from the replacement-cost-new limit of the originating facility and are assigned to the receiving facility. Minnesota Statutes, Chapter 256B.431, subdivision 3a, paragraph (c), allows for the number of beds in place on January 1, 1986, to be used in the replacement-cost-new limit even if the beds are no longer part of its
licensed capacity. If the originating facility's 1986 beds are greater than the number of licensed beds on the date of a relocation, for the replacement-cost-new-limit, the number of 1986 beds will be proportionally allocated between the originating and the receiving facility.

Questions about cost analysis should be directed to Kim Brenne, Kimberly.brenne@state.mn.us with DHS.

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To obtain this information in a different format, call: 651-201-3701.