

MINNESOTA DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption and Amendments to Rules of the State Department of Energy and Economic Development Governing the Community Development Block Grant Program Pursuant to Reorganization Order Number 129, Issued Under Minnesota Statutes, 1982, Section 16.125, the Community Development Block Grant Program was Transferred to the Department of Energy and Economic Development.

STATEMENT OF NEED
AND REASONABLENESS

Introduction

The Housing and Community Development Act of 1974, as amended, established a Small Cities Community Development Block Grant program for cities under 50,000 population. The primary objective of the program is "the development of viable urban communities by providing decent housing and a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income." The U. S. Department of Housing and Urban Development has promoted this objective through grants administered by its area offices for housing, public facilities and economic development projects.

In 1981 the federal law was amended to give state governments the option to administer the program. Rules providing procedures for evaluating applications for funds and awarding grants to eligible applicants were developed and adopted, as provided by Title 1 of the Housing and Community Development Act of 1974, as amended. The rules were developed to give local units of government the flexibility to design projects to address local needs in accordance with that law.

Implementation of the Small Cities Development Program during the first year proceeded in a fair and orderly fashion under the rules as adopted. However, this experience revealed that a single closing date is inappropriate for economic development applications. Opportunities arise irrespective of application deadlines. The proposed amendments to the rules are the result of suggestions made by local government officials, applicants and other interested parties as well as based upon experience of the Division of Community Development.

Pursuant to Minnesota Laws 1983, Chapter 289, the Community Development Block Grant Program was transferred to the newly created State Planning Agency. However, authority for the adoption of these rules is contained in Minnesota Statutes Section 116J.42 and 116J.45 (1982) as amended by Minnesota Laws 1983, Chapter 289, Section 50, Subdivision 115. This authority has been transferred from the State Planning Agency to the Department of Energy and Economic Development pursuant to Reorganization Order Number 129 issued pursuant to Minnesota Statutes 1982, Section 16.125.

Justification for Amendments to the Rule

The format used in preparing this Statement of Need and Reasonableness is as follows: Each substantive amendment or revision to the rule is stated first, followed by a discussion of the intent of the proposed amendment, the need for the amendment or revision, and its reasonableness. The following are discussions of three types of non-substantive revisions necessary as a result of departmental reorganization or grammatical changes made for general conformance with the proposed amendments cited as a whole. These revisions occur throughout the rules. The revisions are not discussed individually because of their non-substantive nature.

1. The Department of Energy, Planning and Development has been amended to conform with department reorganization under Reorganization Order Number 129 to which the program is assigned.
2. The term "competitive" has been inserted before "applications" where the rule applies to single purpose housing and public facilities and/or comprehensive applications to distinguish the method of rating those applications from the economic development project evaluation procedure.
3. Definitions have been renumbered because new terms have been added.

10 MCAR 1.500 C. Definitions

1. "Application year" means the federal fiscal year beginning October 1st and ending September 31st.

DISCUSSION: Federal funds are usually appropriated by federal fiscal year although the period of time during which those funds are made available to the states for distribution to local units of government may vary from this standard. The term grant year was established to indicate the period of time funds were available. It is necessary to establish the term application year to indicate the level of funding available from the federal fiscal appropriation. The term and definition are reasonable because they are consistent with federal appropriation periods.

3. "Competitive grant" means a grant application that is evaluated and ranked in comparison to other applications in the same grant category and includes housing, public facilities and comprehensive applications.

DISCUSSION: This definition is necessary to distinguish competitive grant applications from economic development applications. It is reasonable to inform applicants and local units of government of this distinction and the competitive relationship of applications in each category.

4. "Economic development project" means one or more activities designed to create new employment, maintain existing employment, increase the local tax base, or otherwise increase economic activity in a community.

DISCUSSION: This term is necessary to inform prospective applicants that economic development projects may consist of one or more activities designed to induce economic development. The term is reasonable because it is based on state economic development objectives, is broad enough to include a wide variety of methods for achieving objectives, and is a continuation of the types of activities funded during the previous year.

14. "Office" means the office of Local Government or division in the Department of Energy, ~~Planning~~ and Economic Development to which the program is assigned.

DISCUSSION: The Office of Local Government to which this program was assigned has been dissolved. The program has been assigned to the Division of Community Development. It is necessary and reasonable to inform prospective applicants and local units of government of this administrative change.

24. "Single purpose project" means one or more activities designed to meet a specific housing or public facilities community development need.

DISCUSSION: Units of local government may apply for funding under the single purpose competitive funding cycle to address one particular type of community development need. A project may consist of one or more activities that address the stated housing or public facilities need. This definition is necessary to distinguish economic development projects from competitive single purpose projects. It is reasonable because it is consistent with previous state administration of the program.

10 MCAR § 1.505 A. 3. ~~deletion~~ repeal.

10 MCAR § 1.506 Economic development grants; non-competitive. The office shall approve grants for economic development projects for funding throughout a single application year, or until the funds reserved have been exhausted.

DISCUSSION: It is necessary and reasonable to repeal 10 MCAR § 1.505 A. 3. and adopt proposed 10 MCAR § 1.506 because evaluation of previous experience administering grants for economic development projects along with numerous comments from potential program users reveals that a single, annual opportunity to apply for funds is inappropriate for economic development. In most cases, the viability of a project is dependent upon relatively short-term commitments. Need for economic development assistance tends to arise abruptly; it is not the result of chronic deterioration for which solutions can be planned. It is necessary and reasonable for the office to accept applications and award grants throughout the year as long as funds are available.

10 MCAR § 1.510 B (new language) An eligible applicant may apply for no more than one competitive grant and no more than one economic development grant during the grant year.

DISCUSSION: Eligible applicants have a variety of community development needs. Those relating to housing, public facilities, or a comprehensive

strategy for overall revitalization may be addressed in an annual competition; however, the nature and need for economic development is such that eligible applicants should not be precluded from submitting an application for a worthwhile project. It is necessary to permit eligible applicants to apply for one competitive grant and one economic development grant in order to assure that the most worthwhile projects can be funded. It is reasonable to limit applicants to one of each type so that applicants are encouraged to submit their most worthwhile projects and so that grant funds may be distributed to the best projects.

10 MCAR § 1.510 D.2 Ten days but not more than 30 60 days.

DISCUSSION: Assurances regarding compliance and citizen participation are required by federal regulation. It is necessary to extend the length of time allowed for a public hearing in order to give applicants sufficient time to receive public comment. It is reasonable because the additional time has been requested by applicants; it will give them greater opportunity to incorporate citizen comments and weather conditions during January make it difficult for some applicants to meet this requirement.

10 MCAR § 1.510 E. (New language) Economic development applications may be submitted at any time during the application year.

DISCUSSION: This addition is necessary to distinguish the closing date for competitive applications from the open submission of economic development applications. It is reasonable because competitive applications will be awarded funding based on their ranking after comparative review whereas economic development applications may be recommended for funding until the reserve is exhausted.

10 MCAR § 1.540 Evaluation of economic development projects. Repeal.

DISCUSSION: This section has been deleted and is replaced by 10 MCAR § 1.546. This is necessary to conform to the distinction between competitive applications and economic development applications. It is reasonable because it reinforces consistency in the rules.

10 MCAR § 1.545 (New language) Consideration of need for an economic development project shall be based on deficiencies in employment opportunities and circumstances contributing to economic vulnerability and distress.

DISCUSSION: Consideration of impact shall be based on the extent to which the project reduces or eliminates the need. Consideration of capacity shall be based on demonstration of administrative capability, realistic implementation schedule, and the ability to conform to state and federal requirements.

10 MCAR § 1.546 Evaluation of economic development projects.

Evaluation of economic development applications shall consist of eligibility threshold screening and project review. Applications must meet the eligibility thresholds in order to be referred for project review. Applications which fail to meet eligibility thresholds may be revised and resubmitted.

A. Eligibility thresholds.

1. Federal thresholds. Applicants must provide a description of the ways that activities address one of the federal objectives described in 10 MCAR § 1.500 B. Each activity proposed for funding must be eligible under current federal regulations.
2. State thresholds. Applicants must describe how they will meet two of each of the three following thresholds based on state economic development objectives:
 - a. Creation or retention of permanent private sector jobs;
 - b. Stimulation or leverage of private investment; or
 - c. Increase in local tax base.

B. Project review. Applications that meet eligibility thresholds will be awarded points by the office based on evaluation of project design and financial feasibility. Applications must attain at least two-thirds of the total available points for economic development to be recommended for funding. Applications must score at least half of the points available in each of the two rating categories.

1. Project design. Two-thirds of the available points will be awarded based on an evaluation of project quality including an assessment of need, impact and the capacity of the applicant to complete the project in a timely manner.
2. Financial feasibility. One-third of the available points will be awarded based on an evaluation of the effective use of funds to induce economic development. Consideration of financial feasibility shall include investment analysis, commitment of other funds, and other factors relating to the type of program assistance requested.

C. Funding recommendations. Applications that attain at least two-thirds of the available points will be recommended to the commissioner for funding. Applications not recommended for funding may be revised and resubmitted.

DISCUSSION: This section replaces 10 MCAR § 1.540 and is necessary to describe the procedure the office will follow in its evaluation of economic development applications and subsequent funding recommendations to the commissioner, in order to assure that the best applications on a statewide basis are recommended. It is reasonable because it is based on a combination of threshold factors established by federal regulations for the program, state objectives established for economic development under state administration of the program, and evaluation of project design and financial feasibility. State administration of the program for F.Y. 1983 has shown that economic development applications are more difficult to package than others addressing community development needs. One of the most frequent concerns during review and evaluation of economic development proposals was the lack of information included in the application. It was, in several cases, evident that provision of additional information could have made a significant difference to the

final rating of the project. For this reason, the office finds that it is necessary and reasonable to provide that applications may be revised and resubmitted if they fail to meet threshold eligibility requirements or do not score sufficient points to be recommended for funding.

A. Eligibility thresholds.

Federal. Federal regulations for state administration of the Small Cities CDBG program were designed to "maximize the legislative thrust to provide states sufficient flexibility in administering the program," however the state must comply with federal objectives for the program as established by the Housing and Community Development Act of 1974, as amended. It is therefore necessary to require that applicants describe how they will be addressing one of these objectives with their project. It is also necessary that each proposed activity be eligible under federal regulations in order to be fundable. It is reasonable to establish federal requirements as eligibility thresholds because a project cannot be funded unless it addresses one of the three federal objectives and all activities are reasonable.

State. Because of the limited amount of funds available for economic development projects and the high potential for economic development funding requests, it is necessary to establish thresholds based on state economic development objectives for the Small Cities Development Program. It is reasonable to require that applicants describe how they will meet two out of three of the objectives in order to assure that state priorities are met. Due to state concern regarding unemployment and underemployment it is reasonable that projects be designed to create or retain permanent private sector jobs. It is also reasonable to use the stimulation or leverage of private investment as a state eligibility criterion because these grants funds are limited and are best used in combination with other funds. Examples of stimulating private investment could encompass a wide array of activities ranging from using grant funds to provide infrastructure to lowering market interest rates. It is also reasonable that eligible applicants use grant funds in such a way as to increase their tax base as a result of public investment.

- B. Project review. In order that those applications most worthy of funding receive positive recommendations, it is necessary to establish objective criteria for evaluating applications. It is also necessary to establish the minimum level of points an application must score in order to be recommended for funding. It is necessary and reasonable for applications to score at least half the points available in each category in order to assure that overall the project is worthwhile.

Project design. It is necessary to evaluate the quality of a project based on the need, impact and capacity of the applicant to implement the project in order to assure that the proposed project is worthy of public investment of funds. As under previous state administration of the program, these criteria encompass a wide range

of indicators which the office finds are reasonable to evaluate economic development proposals. Need indicators will enable the office to determine the level of economic distress faced by the community. Impact indicators will provide the basis for an evaluation of expected outcomes of the project and whether the implementation of a project will result in long-term improvements to the economic base of the community and address the need(s) described. Capacity indicators will provide the framework for evaluating the commitment and ability of the applicant to implement the project within a reasonable time period and to be able to accomplish what is proposed. It is necessary to establish the proportion of points allocated to this category of review and it is reasonable that two-thirds of the total points available be allotted to project design components because of the number and importance of these criteria.

Financial feasibility. It is necessary to evaluate the quality of a project based on financial feasibility indicators in order to assure that the dollars requested will be used most effectively. Evaluation of the role of Small Cities Development Program funds within the total project cost structure including investment analysis, the degree and strength of other funds committed to the project, other public and private actions that will be taken to facilitate the project's implementation will enable the office to reasonably determine the strength of the financial package and subsequent return on public investment. It is necessary to establish the proportion of points allocated to the review of financial feasibility and reasonable that the remaining one-third of the available points be awarded based on evaluation of these considerations. Because minimum acceptable standards will be established in the threshold eligibility screening, the office has determined that the financial aspects of the application should not carry as much weight as program design aspects.

10 MCAR § 1.550

- B.1.30 percent shall be reserved by the office to fund single purpose grants, 15 percent shall be reserved for economic development grants and 55 percent shall be reserved by the office to fund comprehensive....

DISCUSSION: Under the first year of the state administration of the block grant program, 45 percent of the funds were reserved for single purpose grants, including economic development grants. Because economic development grants are being eliminated from the competitive single purpose category and established as a separate category, it is necessary to reserve a portion of the single purpose funds. It is reasonable to reserve 15 percent of those funds for economic development because it is consistent with previous grant awards under this program.

- B.2. At least 30 percent of the funds made available for single purpose grants shall be awarded for applications in each of the two categories: housing and public facilities. However, no application

with a rating below the median score for its category shall be funded by the office solely for the purpose of meeting this requirement.

DISCUSSION: In order to clarify the reservation of funds within the single purpose competitive category, it is necessary to establish that the remaining non-comprehensive funds will be used to fund housing and public facilities projects. It is reasonable because it is consistent with previous grant awards under this program.

- B.3. If there are unawarded economic development funds available at the end of the application year, two-thirds of the remaining funds will be available for competitive single purpose projects and one-third will be available for economic development projects during the next application year.

DISCUSSION: The addition of this section is necessary to inform prospective applicants of the method that will be used to disburse any funds reserved for economic development that have not been awarded at the close of the application year. Because the fund reservation for economic development projects was set aside from the allocation of single purpose projects, it is reasonable to make two-thirds of the remaining funds, if any, available for funding competitive single purpose (housing and public facilities) applications during the next grant cycle.

F. Grant Ceilings

No competitive single purpose grant may be approved for an amount over \$600,000. No comprehensive grant may be approved for an amount over \$700,000 from any single grant year or for more than a total of \$1,400,000 over three grant years. No economic development grant may be approved for an amount over \$500,000.

DISCUSSION: The funding level for economic development grants is established at \$500,000 in order to encourage leveraging of additional funds that may be needed for the project and also to make economic development funds available to more communities. The grant ceiling is necessary to establish the maximum amount of funds possible for each grant. It is reasonable because the average dollar amount requested under single purpose economic development competitive grants was less than \$500,000.