

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed
Rules Governing the Community
Development Block Grant
Program, Minn. Rules Parts 4300

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

This proposed rule amendment will modify a portion of existing rules codified in Chapter 4300 of Minnesota Rules. These rules establish standards and procedures to govern the administration of the federal Small Cities Community Development Block Grant program. These rules were initially adopted when the state assumed the responsibility for awarding and administering these grants to local units of government throughout Minnesota. Two years later, these same rules were applied to the administration of the state-funded Economic Recovery Grant program. The authorizing legislation of this program, Minn. Stat. section 116J.873 (1986), specifically stated that the rules adopted for economic development grants in the Small Cities Community Development Block Grant programs be used to govern the administration of the new state-funded Economic Recovery Grants program.

II. STATEMENT OF COMMISSIONER'S STATUTORY AUTHORITY

The department's statutory authority to adopt the rules is set forth in Minn. Stat. §116J.401(2), 116J.403, and 116J.873 which provides:

116J.401 POWERS AND DUTIES

The Commissioner of Trade and Economic Development shall:

1. receive and administer the Small Cities Development Block Grant program authorized by Congress under the Housing and Community Development Act of 1974, as amended;

116J.403 RULES

No money made available to the Commissioner for the Small Cities Community Development Block Grant program shall be spent for community development and related planning programs until the Commissioner adopts rules prescribing standards and procedures to govern the expenditure. The rules must be adopted under the administrative procedure act in chapter 14 and must conform with all terms and conditions imposed on the Commissioner when the money is made available. The Commissioner may adopt emergency rules under sections 14.29 to 14.36 so that the Commissioner can carry out promptly the responsibilities for administering federally-funded community development grant programs.

History: 1984 c 558 art 4 s 6; 1984 c 640 s 32; 1986 c 444

116J.873 ECONOMIC RECOVERY GRANTS

Subd. 1. Administration. Economic Recovery Grants shall be made available to local communities and recognized Indian tribal governments in accordance with the rules adopted for economic development grants in the Small Cities Community Development Block Grant programs, except that all units of general purpose local government are eligible applicants for Economic Recovery Grants. The Commissioner of Trade and Economic Development shall administer the Economic Recovery Grant program as a part of the Small Cities Development Program.

Subd. 2. Economic Recovery Grant defined. "Economic Recovery Grant" means an agreement between the state and an eligible recipient through which the state provides money to carry out specified programs, services, or activities designed to create new employment, maintain existing employment, increase the local tax base, or otherwise increase economic activity in a community.

Subd. 3. Grant evaluation. The Division of Community Development in the department shall accept, review, and evaluate applications for grants to local units of government made in accordance with rules adopted for economic development grants in the Small Cities Development Program. Applications recommended for funding, including recommended grant awards, shall be submitted by the division to the Commissioner for approval.

Subd. 4. Grant limits. An Economic Recovery Grant may not be approved for an amount over \$500,000. The division may recommend less funding than requested if, in the opinion of the division, the amount requested is more than is necessary to meet the applicant's needs. If the amount of the grant is reduced, the reasons for the reduction shall be given to the applicant. The portion of an Economic Recovery Grant that exceeds \$100,000 must be repaid to the state when it is repaid to the local community or recognized Indian tribal government by the person or entity to which it was loaned by the local community or Indian tribal government. Money repaid to the state is appropriated to the Commissioner of Trade and Economic Development for the purpose of making additional Economic Recovery Grants.

History: 1984 c 654 art 2 s 107; 1987 c 312 art 1 s 26 subd 2

Under these statutes, the department has the necessary statutory authority to adopt the proposed rules.

III. STATEMENT OF NEED

In January 1988, the Department of Trade and Economic Development underwent a major reorganization whereby the department's Community Assistance financing programs were transferred to the Community Development Division. In an attempt to make these programs more accessible to constituents, the division began a three-step education and application simplification effort.

The first step in the education process was to develop and distribute the publication "Enhance Minnesota." This manual contains a complete listing of the division's programs and summaries including examples of each program.

In May of 1988, the division sponsored a series of six seminars in greater Minnesota. The theme of the seminars was the same as the "Enhance" publication. They were held to educate potential applicants as to the loan and grant programs available through the division.

The third step in this effort is the development and implementation of a "Community Development Application." The Community Development Application will help make financing assistance programs more accessible and less complicated to communities and other constituents. The Community Development Application will make it easier for communities to access the 10 financing programs administered by the Community Development Division. It will also streamline, consolidate, reduce, and simplify the application process.

The Community Development Application will entail the following activities:

1. The applicant will submit a Community Development application form which will describe the needs of the community and any potential projects the applicant is planning to undertake. This application can access any of the division's 10 financing programs.
2. A review team comprised of Community Development staff will review these applications on a weekly basis.
3. When the review has been completed, the applicant will meet with division staff to discuss funding programs both within the division and outside the division. If there is a potential for financing assistance within the division, relevant program manuals and forms packets for specific programs will be provided.

The current rules must be revised to incorporate the utilization of the new Community Development Application. The ~~integrity of the~~ division's financing programs will not be altered.

IV. STATEMENT OF REASONABLENESS

A. Reasonableness of the Rules as a Whole

It is reasonable to amend the rules to incorporate the Community Development Application which will not alter the objectives, purposes, criteria or methods of selecting projects for the division's financing programs. Neither the evaluation of projects nor the grant award process will change. This streamlined, innovative approach will enable

the division to provide more efficient, comprehensive services to its constituents.

B. Reasonableness of Individual Rules

4300.0100, Subpart 2. Application Year.

Subp. 2. Application Year. "Application year" means the ~~federal~~ state fiscal year beginning ~~October~~ July 1st and ending ~~September 31st~~ June 30.

With this change, the application cycles of the division's financing programs (state and federal) will be consistent. This is in keeping with the intent of the Community Development Application and is, therefore, reasonable.

4300.0100, Subpart 3. Commissioner.

Subp. 3. Commissioner. "Commissioner" means the Commissioner of the Minnesota Department of Trade and Economic Development.

It is necessary to incorporate this definition into the rules because Minnesota Rule 4300.2000, Subp. 4, requires that the Commissioner approve or disapprove applications recommended for funding. The current rules do not have a definition for commissioner, therefore, it is reasonable to add this definition.

4300.0100, Subpart 54. Community Development Application.

Subp. 54. Community Development Application. "Community Development Application" means the official consolidated application form as

developed by the department to be used to apply for funding assistance from various community assistance programs administered by the Community Development Division.

4300.0100, Subpart 20. Division.

Subp. ~~16~~ 18. ~~Office~~ Division. "~~Office~~" "Division" means the ~~office of Community Development~~ Division in the Department of ~~Energy Trade and Economic Development~~ to which the program is assigned.

It is necessary and reasonable to make these changes since the Community Development Division is not referred to as an "office" and the name of the department was changed in 1986.

4300.0100, Subpart 25. Program Area.

Subp. ~~21~~ 23. Program Area. "Program area" means a defined geographic area within which an applicant has determined that, ~~based on community plans or other studies,~~ there exists a need for community development activities. A program area may be a neighborhood in a community or an entire community.

This subpart is amended to delete the requirement for a community to develop a formal plan and planning process to determine the needs in a program area. While many applicants may have a formalized planning process established, the information required to support the needs of the program area may be documented through an informal and less costly process such as an area or community-wide survey. Eligible applicants are required by federal law to develop a Housing and Community

Development Needs Assessment which would document a need for the community development activities. The needs assessments provides the same information as a community or regional plan and, therefore, it is reasonable to eliminate the duplication.

4300.0100, Subpart 28. Housing and Community Development Needs Assessment.

Subp. ~~24~~ 26. ~~Regional or Community Development Plans.~~ "Regional or community development plans" means written documents, resolutions, or statements which describe goals, policies, or strategies for the physical, social, or economic development of a neighborhood, community, or substate area. ~~Regional or community development plans include comprehensive plans and elements of comprehensive plans, including land use plans, which have been approved by the governing boards of townships, counties, or cities, and also include regional development plans adopted under Minn. Stat. 5462.281, where applicable.~~

Subp. ~~28~~ 26. Housing and Community Development Needs Assessment. "Housing and Community Development Needs Assessment" means an analysis of priority community needs as required by 42, USC, Section 5304 (b) (3).

To be consistent with Minnesota Rule 4300.0100, Subp. ~~24~~ 23 as proposed, it is reasonable to eliminate the definition of Regional or Community Development Plans and replace it with the definition of Housing and Community Development Needs Assessment. The Housing and Community Development Needs Assessment is required by federal law, and

communities are, therefore, required to review the current needs of the program area to support the community development activities proposed in the application. Eligible applicants will not be required to complete or document other regional or community planning studies, which are a duplication of the needs assessment. Therefore, the definition for Regional or Community Development Plans is eliminated, and a definition of Housing and Community Development Needs Assessment is added.

4300.0100. Subpart 30. Single-Purpose Project.

Subp. ~~26~~ 28. Single-purpose Project. "Single-purpose project" means one or more activities designed to meet a specific housing or public facilities community development need within a defined program area.

It is reasonable to amend this definition to be consistent with the requirements of the application. Eligible applicants are required to define the geographic area for which activities are proposed in a single-purpose project so it is reasonable to amend the definition to incorporate the defined geographic area. This would be consistent with 4300.0100, Subp. 7, Comprehensive Program.

It is reasonable to reorder the numbering system of Chapter 4300.0100, Definitions, since there are two new definitions incorporated into this section.

4300.0200. Purpose.

This chapter gives procedures for evaluating applications for grants and awarding them to eligible applicants by the Department of Energy

Trade and Economic Development under United States Code, title 42, sections 5301-5136 (1981), and regulations adopted in Code of Federal Regulations, title 24, part 570, and under Minn. Stat. 116J.873.

In 1986, the name of the Department of Energy and Economic Development was changed to the Department of Trade and Economic Development. It is, therefore, necessary and reasonable to change this segment of the rules because of its obsolescence. The addition of Minn. Stat. 116J.873 is necessitated because this statute is applicable to the Economic Recovery Fund grant program.

4300.1100, Subpart 1. Single-Purpose Grants.

Subp. 1. Single-purpose grants. The ~~office~~ division shall approve ~~grants~~ grant applications for funding for single-purpose projects ~~for funding from a single grant year~~. The ~~office~~ division shall place single-purpose grant applications in one of the following categories for purposes of evaluation:

There are two changes proposed for this subpart. First, Minn. Rules 4300.0100, Definitions, Subpart 18, was amended to delete the term "office" and replace it with the term "Division." The change from office to Division in this subpart is now consistent with the revised Subpart 18.

Secondly, the deletion of the phrase "from a single grant year" is necessitated by the fact that the division may need to approve funding for a single-purpose project from reverted grant funds representing appropriations from several federal fiscal years. Reverted funds

become available as previously funded grants are closed out or terminated. The division may award these reverted funds from closed or terminated single-purpose grants to approved single-purpose projects.

4300.1101. Economic Development Grants, Non-competitive.

The office shall approve grants for economic development projects for funding throughout a the single application year, or until the funds reserved have been exhausted.

It is reasonable to make this change to be consistent with Minn. Rules 4300.0100, Subpart 2, Application Year and Minn. Rules 4300.0100, Subpart 4, Community Development Application.

4300.1200, Subpart 1. ~~Grant Application Manual.~~

~~Subp. 1. Grant Application Manual. The office shall prepare a manual for distribution to eligible applicants no later than 120 days before the application closing date for competitive applications. The manual must instruct applicants in the preparation of applications and describe the method by which the office will evaluate and rank applications.~~

4300.1200, Subpart 1. Community Development Application Manual.

Subp. 1. Community Development Application Manual. The division shall make the Community Development Application Manual, additional instructional materials, and forms available on a year-round basis. The manual and additional materials and forms shall instruct applicants

in the preparation of applications and describe the method by which the division will evaluate and rank applications.

There are three changes proposed for this subpart. The first revision changes the term "Grant Application Manual" to "Community Development Application Manual" and by reference incorporates additional instructional materials and forms.

The second revision deletes the term "office." Minn. Rules 4300.0100, Subpart 18, has been amended to delete the term "office" and replace it with the term "Division." To be consistent with 4300.0100, Subpart 18, it is reasonable to amend Subpart 1.

The third revision deletes the 120-day distribution requirement for the competitive grant program's grant application manual. Because the Community Development Application Manual, additional materials, and forms will be available on a year-round basis, it no longer becomes necessary for the rules to state that the distribution of the manual must occur no later than 120 days before the application closing date for the competitive applications. Therefore, it is reasonable to amend Subpart 1.

4300.1200, Subpart 2. Eligibility Requirements.

Subp. 2. Eligibility Requirements. Any unit of general purpose local government, including cities, counties, and townships located in a nonentitlement area or electing exclusion from an urban county under United States Code, title 42, section 5302 (1981), may apply for a grant. An eligible applicant may apply on behalf of other eligible

applicants. Applications submitted on behalf of other applicants must be approved by the governing body of all local governments party to the application. An eligible applicant may ~~apply for~~ receive only one competitive grant per grant year and no eligible applicant shall be included in more than one competitive application. An eligible applicant may ~~apply for~~ receive one economic development grant in addition to a competitive grant each application year.

It is reasonable to revise the Eligibility Requirements to eliminate the restrictive language which currently allows for an eligible applicant to apply only once per grant year and it is in keeping with the proposed Minn. Rules 4300.0100, Subpart 4, Community Development Application.

This change will not alter the number of grants a community can receive in any grant year.

4300.1200, Subpart 4. Contents of Application.

Subp. 4. Contents of a Community Development Application. The contents of ~~the a~~ Community Development application must be consistent with the informational requirements of this chapter and must be on a form prescribed by the ~~office~~ division. A complete Community Development Application will include, but not be limited to:

- A. Needs Narrative - summarizing the needs for the proposed project;
- B. Project Summary - summarizing the activities to be completed and the scope of the project;

- C. Activities and Budget - detailing the estimates associated with each proposed activity;
- D. Assurances - necessary to comply with federal or state requirements as a prerequisite to receiving state or federal funding;
- E. Resolution - from the submission of the local government applicant approving the application and authorizing execution of the grant agreement in accordance with the requirements of the Community Development Division if funds are made available.
- F. Supporting Materials - Attachments which are designed to verify or support information presented in A. through E. above.
- ~~A. An assurance, signed by the chief elected official, that the applicant will comply with all applicable state and federal requirements;~~
- ~~B. An assurance signed by the chief elected official certifying that at least one public hearing was held at least ten days but not more than 60 days before submitting the application; and~~
- ~~G. A copy of a resolution passed by the governing body approving the application and authorizing execution of the grant agreement if funds are made available.~~

The ~~office~~ division may request additional information from the applicant if it is necessary to clarify and evaluate the application.

There are several changes proposed for this subpart.

It is reasonable to add A-F because it is a more complete listing of application contents as currently required by the division.

It is reasonable to delete Subpart 4A because A. is covered in the revised completed application contents.

It is reasonable to delete Subpart 4B because the public hearing requirement is a part of the Assurances Section, 4300.1200, Subpart 4, Section D.

It is reasonable to delete Subpart 4C because it is included in revised Subpart 4.

It is, therefore, necessary and reasonable to make these changes to Minn. Rules 4300.1200, Subpart 4.

4300.1200, Subpart 5. Time Limit for Submitting Applications.

Subpart 5. Time Limit for Submitting Applications. ~~Competitive applications must be received in the office or postmarked by the closing date. The office shall give notice of the period during which applications will be accepted.~~ While competitive applications may be submitted at any time during the year, a formal yearly closing date for receipt of applications will be established. Complete competitive

applications will be evaluated following the closing date. The notice must be published in the State Register at least 120 days before the closing date. Economic development project applications may be submitted at any time during the ~~grant~~ application year.

In accordance with Minn. Rules 4300.0100, Subpart ~~3~~ 4, as proposed, both competitive and economic development applications may be submitted throughout the application year. It is necessary to amend 4300.1200, Subpart 5, to illustrate that a formal process will be used to notify potential applicants that the closing date for submittal of competitive applications is only 120 days away. It is, therefore, reasonable to make this change.

In addition, it is reasonable to change application year from grant year to be consistent with proposed Minn. Rules 4300.0100, Subpart 2, Application Year.

4300.1400, Subpart 3.A.

Subp. 3. Evaluation of Other Factors. One-third of the points in the general competition shall be awarded based on evaluation of:

- A. The extent to which the proposed activities are compatible with ~~regional or community development plans; and~~ the Housing and Community Development Needs Assessment; and
- B. Adequacy of the applicant's management and financial plan.

It is necessary and reasonable to delete the above-referenced segment of Subpart 3.A. in order to be consistent with the proposed amendments

to Minn. Rule 4300.0100, Subpart 23 and Subpart 26, which eliminates the requirement for community and regional plans and other studies.

SAM II/2-CP (1-5)