

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. RR 1366 Docket No. 05.0009.0420

DATE RECEIVED May 13/87
REVIEW DATE 5-22-87
DUE DATE 5-27-87

APPROVED
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING x
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~
~~Date published in State Register~~
~~Comments~~
Notice of Intent

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ Proposed rule
Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
1169.873, 1169.403 1169.901 Statutory Authority
Yes Small business statement
None Expenditure of public money statement
Yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
2/12/87 Date (30/25 days before adoption

✓ Publication in State Register
2/16/87 Date 30/25 days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting
5/6/87 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney
Christie Eller Name of SAAG representing agency
Affidavit of Certificate of Mailing list

~~Notice of Submission to Attorney General~~

✓ Monitoring Report
~~Affidavit of Mailing Notice to Attorney General~~

✓ Notice of intent to adopt Rule Amend.
✓ affidavit of mailing above

SF-00006-05 (4-86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : May 29, 1987

TO : CHRISTIE ELLER
Special Assistant
Attorney General

FROM : MIKE MILES
Assistant Attorney General

PHONE : 6-6555

SUBJECT : In the Matter of the Adopted Rules Relating to Community Block Grants

The above-referenced rule has been approved as to its legality by the Attorney General on May 27, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

JMM:nah

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Adminsitrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

Department of Energy and Economic Development

Adopted Permanent Rules Relating to Community Block Grants

Rules as Adopted

4300.1100 TYPES OF COMPETITIVE GRANTS AVAILABLE.

Subpart 1. [Unchanged.]

Subp. 2. **Comprehensive grants.** The office shall approve comprehensive grants for two or more projects which constitute a comprehensive program as described in part 4300.0100.

Subp. 3. [See Repealer.]

4300.1200 APPLICATION PROCESS AND REQUIREMENTS.

Subpart 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.

Subp. 2. to 6. [Unchanged.]

4300.2000 DETERMINATION OF GRANT AWARDS.

Subpart 1. **Funds available for grants.** The amount of funds available for grants shall be equal to the total allocation of federal funds made available to the State under United States Code, title 42, section 5306 (1981), after subtracting an amount for costs available to the office for administration of the program, as allowed by that law. The office is not liable for any grants under this chapter until funds are received from the United States Department of Housing and Urban Development.

Subp. 2. **Division of funds.** Of the funds available for grants in each grant year, 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 grants.

However, the office may modify the proportions of funds available for single purpose and comprehensive grants if, after review of all applications, it determines that there is a shortage of fundable applications in either category.

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.

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.

Subp. 3. to 5. [Unchanged.]

Subp. 6. **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 $1,400,000. No economic development grant may be approved for an amount over $500,000.

4300.3100 GRANT AGREEMENTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Use of program income.** Program income from sources such as reimbursements to and interest from a grant recipient's loan program, proceeds from disposition of real property, and proceeds from special assessments must be used for eligible activities. The office shall reduce future grant payments by the amount of any unobligated program income that an applicant has and shall take whatever additional action is necessary to recover any remaining amounts owed.

Subp. 4. to 7. [Unchanged.]

4300.3200 RECORD KEEPING AND MONITORING.

Subpart 1. [Unchanged.]

Subp. 2. **Audits.** Grant recipients must arrange for and

pay for an acceptable independent audit prepared in compliance with OMB Circular A-128, which was published in the Federal Register, volume 50, number 188, page 39083, on September 27, 1985, and the Single Audit Act of 1984, Public Law Number 98-502, codified as 31 U.S.C. sections 7501-7507. Costs incurred pursuant to this requirement are eligible under this program.

Subp. 3. to 5. [Unchanged.]

REPEALER. Minnesota Rules, part 4300.1100, subpart 3 is repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 27 1987
Joan Anderson Growe
Secretary of State
3:00PM

APPROVED AS TO FORM AND LEGALITY

5/27 1987

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

Department of Energy and Economic Development

Proposed Permanent Rules Relating to Community Block Grants

Rules as Proposed

4300.1100 TYPES OF COMPETITIVE GRANTS AVAILABLE.

Subpart 1. [Unchanged.]

Subp. 2. **Comprehensive grants.** The office shall approve comprehensive grants for two or more projects which constitute a comprehensive program as described in part 4300.0100. ~~Comprehensive grants shall be approved for funding from one, two, or three grant years. In the case of grants approved for funding from more than one grant year, the office shall make funds available to the grant recipient in the second or third year only after the recipient submits an approved application. Approval shall be subject to a finding by the office that the grant recipient has made normal progress and is in compliance with this chapter.~~

Subp. 3. [See Repealer.]

4300.1200 APPLICATION PROCESS AND REQUIREMENTS.

Subpart 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. ~~If this chapter is not adopted before September 15, 1982, the 120-day period is waived for the 1983 grant year but the office shall make the manual available no later than 60 days before the application closing date.~~

Subp. 2. to 6. [Unchanged.]

4300.2000 DETERMINATION OF GRANT AWARDS.

Subpart 1. **Funds available for grants.** The amount of funds available for grants shall be equal to the total

APPROVED IN THE REVISOR OF STATUTES OFFICE BY: DSN

allocation of federal funds made available to the State under United States Code, title 42, section 5306 (1981), after subtracting an amount for costs ~~incurred by~~ available to the office for administration of the program, as allowed by that law. The office is not liable for any grants under this chapter until funds are received from the United States Department of Housing and Urban Development.

Subp. 2. **Division of funds.** Of the funds available for grants in each grant year, 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 grants~~, including the second and third years of comprehensive grants approved for funding under parts 4300.1100 and 4300.1900~~. However, the office may modify the proportions of funds available for single purpose and comprehensive grants if, after review of all applications, it determines that there is a shortage of fundable applications in either category.

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.

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.

Subp. 3. to 5. [Unchanged.]

Subp. 6. **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.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

4300.3100 GRANT AGREEMENTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Use of program income.** Program income from sources such as reimbursements to and interest from a grant recipient's loan program, proceeds from disposition of real property, and proceeds from special assessments must be used for ~~project-related-costs-within-12-months-from-the-time-it-is earned~~ eligible activities. The office shall reduce future grant payments by the amount of any unobligated program income that an applicant has and shall take whatever additional action is necessary to recover any remaining amounts owed.

Subp. 4. to 7. [Unchanged.]

4300.3200 RECORD KEEPING AND MONITORING.

Subpart 1. [Unchanged.]

Subp. 2. **Audits.** Grant recipients must arrange for and pay for an acceptable independent audit ~~before-grant-close-out~~ prepared in compliance with OMB Circular A-128, which was published in the Federal Register, volume 50, number 188, page 39083, on September 27, 1985, and the Single Audit Act of 1984, Public Law Number 98-502, codified as 31 U.S.C. sections 7501-7507. ~~Audits-will-usually-be-done-annually,-but-no-less frequently-than-every-two-years.--In-the-case-of-two--and three-year-comprehensive-programs,-the-office-shall-require-an audit-after-two-years;~~ Costs incurred pursuant to this requirement are eligible under this program.

Subp. 3. to 5. [Unchanged.]

REPEALER. Minnesota Rules, part 4300.1100, subpart 3 is repealed.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Community Block Grants

AGENCY: Department of Energy and Economic Development

MINNESOTA RULES: Chapter 4300

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption of Amended Rules of the Department of Energy and Economic Development Governing the Community Block Grant Program

NOTICE OF INTENT TO ADOPT RULE AMENDMENTS WITHOUT A PUBLIC HEARING

Notice is hereby given that the Department of Energy and Economic Development intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 116J.873.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Louis Jambois
Department of Energy and Economic Development
Community Development Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-3172

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Louis Jambois upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Louis Jambois.

January 30, 1987
Date

David J Speer
Name

Commissioner
Title

/dh
M XXIV/57-1

STATE OF MINNESOTA
Department of Energy and Economic Development
Community Development Division

In the Matter of Proposed Adoption of Amended Rules of the Department of Energy and Economic Development Governing the Community Development Block Grant Program

Statement of Need and Reasonableness

General Statement - Statutory Authority

The Department of Energy and Economic Development (hereinafter DEED) is proposing to adopt the above-referenced rule amendments as a permanent rule, as authorized in Minnesota Statutes, sections 116J.401(2) and 116J.403.

Background

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 for 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.

Small Business/Commissioner of Finance Considerations

The grants made pursuant to the rules proposed for amendment may only be provided to county, township, and city governments; and, therefore, the proposed amendment will have no effect on small businesses. The proposed amendments to the rules will not modify a fee charged and, therefore, does not require the approval of the Commissioner of Finance.

Need and Reasonableness

There are several subparts of the rules which would be modified by the proposed amendments. Those subparts are:

- 4300.1100, Types of Grants Available

  Subp. 2 Comprehensive Grants
  Subp. 3 Previous Grant Commitments

- 4300.1200, Application Process and Requirements

Subp. 1 Grant Application Manual

- 4300.2000, Determination of Grant Awards

  Subp. 1 Funds Available for Grants
  Subp. 2 Division of Funds
  Subp. 6 Grant Ceilings

- 4300.3100, Grant Agreements

  Subp. 3 Use of Program Income

- 4300.3200, Recordkeeping and Monitoring

  Subp. 2 Audits

The subparts proposed for revision will be identified in the following manner: Deletions will be characterized by strikeouts (-), while additions are characterized by underlining (_). An explanation of need and reasonableness will follow each amended subpart.

4300.1100, Subpart 2, Comprehensive Grants

> The office shall approve comprehensive grants for two or more projects which constitute a comprehensive program as described in Part 4300.0100. ~~Comprehensive grants shall be approved for funding from one, two, or three grant years. In the case of grants approved for funding from more than one grant year, the office shall make funds available to the grant recipient in the second or third year only after the recipient submits an approved application. Approval shall be subject to a finding by the office that the grant recipient has made normal progress and is in compliance with this chapter.~~

The following discussion is intended to illustrate that the original concept and mechanics of approving comprehensive grants from two or three grant years is cumbersome, unnecessary, and should be eliminated. This discussion is not intended, however, to suggest that the $1.4 million comprehensive grant ceiling should be reduced. For a further explanation on grant ceilings, please see the discussion of the proposed amendments to Minn. Rule pt. 4300.2000, subp. 6.

First, this amendment is necessary because comprehensive grants approved from more than one grant year requires unnecessary paperwork. Pursuant to OMB Circular A-102, Attachment G, grant recipients must establish separate account records for each grant award and pursuant to OMB Circular A-102, Attachment H, grant recipients must provide separate reports for each grant award. Pursuant to current rules, grant recipients must submit, for approval, a separate application for each grant award. Of course, DEED staff must analyze each set of account records, each report, and each application submitted by grant recipients. Thus, comprehensive grants approved for funding from two or three grant years require two or three sets of accounting records,

two or three sets of reports, and two or three applications, plus attendant analyses. In order to be competitive and ultimately receive grant money, a prospective comprehensive grant recipient must establish, in the **first** application, the interrelated nature of the project, the project need, the project impact, and the project cost effectiveness. In essence, the applicant must establish that the application represents one project, albeit a comprehensive project. Yet, by financing the project over two or three grant years, DEED and the grant recipient must treat the comprehensive project like two or three separate projects. As a result, unnecessary duplication or triplication occurs at both the state and local levels.

Second, the method of approving comprehensive grants for funding from two or three years can artificially and unnecessarily cause projects to take a long time to complete. Currently, if a grant recipient completes activities funded in their first grant year before they have received approval to begin their second grant year, the grant recipient must stop work and wait for application approval, grant agreement execution and environmental clearance. When those steps are completed, the grant recipient may resume work on the project. Thus, under the present rules, DEED is penalizing those grant recipients who can efficiently execute their projects. A grant recipient certainly cannot spend any grant money until a grant agreement is formally executed. As a result, instead of encouraging a grant recipient to expediently initiate and complete a comprehensive project based on their own administrative capabilities, DEED requires each comprehensive grant recipient who is awarded funds for two or three grant years to follow a prescribed schedule which is based solely on the timing of grant awards. In many cases, grant recipients could progress at a faster rate. Moreover, because some activities (like low-income housing rehabilitation) naturally take a long time to initiate and complete, project agreement periods are frequently written with $1\frac{1}{2}$ to $2\frac{1}{2}$ year durations. Therefore, if a grant recipient schedules a time consuming activity to be conducted with the second or third year award, a multiple year comprehensive project can easily take four to five years to complete.

Third, comprehensive grants approved for funding from two or three years can be complicated further by changes in laws and/or regulations which apply to a specific fiscal year. A grant recipient may have to administer activities funded in their first grant year differently than they administer identical activities funded in their second or third grant years. This situation can lead to unnecessary confusion and/or noncompliance with laws or regulations.

Fourth, approval of comprehensive grants for funding from two or three grant years substantially reduces future grant pools and inhibits the State's ability to finance future comprehensive projects. By permitting funding of comprehensive projects from two or three years, DEED originally hoped to spread each year's allocation to as many grant recipients as possible. In practice, the opposite has occured. Under current rules[1], the State may approve a $700,000 grant for the first year of a comprehensive project and **obligate** up to $700,000 to the second- or third-year phase from future grant pools. For example, in FY'85, DEED approved eleven comprehensive projects which were designed to require funds from the FY'86 grant pool. Those eleven comprehensive projects obligated nearly $6.0 million from the FY'86 competitive grant cycle before the cycle had even begun. Based on program rules and the dollar amount of the FY'86 allocation, only $9.0 million was available for all comprehensive projects. Because the FY'85 multi-year comprehensives required $6.0 million from the FY'86

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[1]Minn. Rule pt. 4300.1100, subp. 2, states, in part, "the office shall make funds available to the grant recipient in the second or third year only after the recipient submits an approved application." Minn. Rule pt. 4300.2000,

pool, there was only $3 million left to finance first year FY'86 comprehensive projects. In FY'86, only 8 new comprehensive projects could be funded, even though the average cost of the FY'86's was significantly less than the FY'85's. The reason for so few FY'86 approvals is that the eleven FY'85 comprehensives used nearly two thirds of the FY '86 comprehensive project allocation. On the surface, it appeared that DEED awarded 19 comprehensive grants in FY'86 (eleven from '85 and eight from '86), but FY'86 applicants knew they were competing exclusively for the '86 money that had not previously been reserved for FY'85 projects. Thus, in reality, by reducing the annual grant maximum and making funds available to approve comprehensive grants from two or three grant years, DEED really only spread the money around to more grant recipients in the **first year of program management.** After the first year, DEED was awarding more grants pursuant to 4300.1100, Subp. 2; but as the FY'85/86 example illustrates, DEED was making awards to **fewer** new grant **recipients.** Again, FY'85 comprehensive projects were not inherently superior to FY'86 comprehensive applications. Yet, because of previous commitments, the FY'85 comprehensive projects received nearly two thirds of the FY'86 comprehensive allocation. Moreover, the problem illustrated by the FY'85/86 example is further aggravated by steady, yearly reductions in congressional appropriations. Some local government officials have recognized the problem and have suggested, via grant cycle public hearings, that the multi-year award aspect of comprehensive projects be eliminated.

Finally, it is important to note that pt. 4300.10100, subp. 2, which states that approval of a second- or third-year grant, "shall be subject to a finding by the office that the grant recipient has made normal progress and is in compliance with this chapter," is not needed to give grant managers the authority to stop a mismanaged project. There are other provisions in the rules which provide DEED said authority. Minn. Rule pt. rules, 4300.3100, subp. 5, now states: "If it is determined that an improper use of funds has occurred, the office will take whatever action is necessary to recover improperly spent funds." So, DEED has the authority to demand refunds, if necessary. DEED also has the authority to hold future payments on mismanaged grants. Minn. Rule pt. 4300.3100, subp. 6, states that DEED, "shall suspend payments of funds to grant recipients that are not in compliance with applicable state and federal laws, rules, and regulations." These rules implement the provisions of OMB Circular A-102, Attachment L, which require the State to develop and follow procedures for termination of a grant, "when a grantee has failed to comply with the grant award stipulations, standards, or conditions." Briefly stated, there are two types of grant terminations. Termination for cause may occur at the grantor's discretion upon a determination that a grant has been mismanaged. Termination for convenience may occur when both the grantor and the grant recipient determine that the project should be discontinued. Thus, because other sections of the rules implementing OMB Circular A-102, Attachment L, gives DEED the authority to stop payments, recover improperly spent grant funds or even terminate a project, there are adequate safeguards short of awarding grant money from two or three grant years to ensure proper local management of grant money.

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subp. 2, states, in part, "...55 percent shall be reserved by the office to fund comprehensive grants, including the second and third years of comprehensive grants approved for funding under parts 4300.1100 and 4300.1900." Further, part 4300.2000, subp. 6, states, in part, "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."

Thus, in summary, comprehensive grants approved for funding from two or three grant years require unnecessary duplication of effort, can unnecessrily increase project duration, are difficult to manage when laws or regulations change, and arbitrarily reduce future grant pools before actual application quality can be determined. As a result, it is necessary and reasonable that Minn. Rule pt. 4300.1100, subp. 2, be amended.

4300.1100, Subpart 3, Previous Grant Commitments

~~Subp. 3. Previous Grant Commitments. The provisions of Subp. 2 apply to three-year comprehensive grant commitments made by the United States Department of Housing and Urban Development in 1981 under United States Code, title 42, section 5306 (1980).~~

When DEED assumed the program's administrative responsibilities in 1983, there were a few local governments who had received assurance from HUD that their comprehensive projects would receive awards in FY'81, '82, and '83. Minn. Rule pt. Chapter 4300.1100, subp. 3, commits DEED to funding the 1983 portion of those comprehensive grants. It is reasonable to repeal subpart 3 because it has been obsolete since FY 1984. The program rules will be more clear and understandable if obsolete material is removed.

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. The manual must instruct applicants in the preparation of applications and describe the method by which the office will evaluate and rank applications. ~~If this chapter is not adopted before September 15, 1982, the 120-day period is waived for the 1983 grant year but the office shall make the manual available no later than 60 days before the application closing date.~~

The original purpose for this segment of the rules was to enable DEED to begin the 1983 grant cycle while the formal rules were going through the final stages of adoption. DEED has just begun the FY'87 grant cycle. It is reasonable to repeal this segment of the rules because it has been obsolete for four years. The program rules will be more clear and understandable if obsolete material is removed.

4300.2000, Subpart 1, Funds Available for Grants

Subp. 1. Funds Available for Grants. The amount of funds available for grants shall be equal to the total allocation of federal funds made available to the State under United States Code, title 42, section 5306 (1981), after subtracting an amount for costs ~~incurred by~~ available to the office for administration of the program, as allowed by that law. The office is not liable for any grants under this chapter until funds are received from the United States Department of Housing and Urban Development.

The necessity of this amendment stems from a HUD monitoring report of September 5, 1985. An excerpt of the HUD report is attached as Appendix A. The HUD report

states, "First, in discussing the amount of funds available for grants (10 MCAR 1.550 A)[2], you note you will be 'subtracting an amount for costs incurred by the office for administration of the program as allowed by law.' Actually, the amount subtracted was the amount available for administration. Very little, if any, administrative expenses had actually been incurred." HUD went on to direct the State to better describe future actions to avoid this finding in the future. The only way to avoid a future finding is to amend Minn. Rule pt. 4300.2000, subp. 1, to delete the phrase "incurred by" and add the phrase "available to."

It is necessary to make this change because we have been directed by HUD, an agency with direct oversight authority over the Small Cities Development Program, to make the change. It is reasonable to make the change because the change will allow DEED to comply with the HUD request without changing program administraiton in any way. The change will not affect the manner in which administrative costs are calculated or the manner in which the State received administrative funds from HUD. The change is merely intended to more accurately reflect the manner in which administrative funds are actually received.

4300.2000, Subpart 2, Division of Funds

> **Subp. 2. Division of Funds.** Of the funds available for grants in each grant year, 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 grants~~, including the second and third years of comprehensive grants approved for funding under Parts 4300.1100 and 4300.1900~~. However, the office may modify the proportions of funds available for single-purpose and comprehensive grants if, after review of all applications, it determines that there is a shortage of fundable applications in either category.

It is both necessary and reasonable to delete the above-referenced segment of subp. 2 in order to be consistent with the proposed amendments to Minn. Rule pt. 4300.1100, subp. 2, which eliminates the concept of approving grants for funding from more than one grant year.

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[2]10 MCAR 1.550A was renumbered as Minn. Rule Pt. 4300.2000, subp. 1.

4300.2000, Subpart 6, Grant Ceilings

> Subp. 6. 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 over $500,000.

An amendment to this subpart is necessary for two reasons. First, subp. 6 makes reference to multi-year comprehensive grants. Proposed amendments to Minn. Rule pt. 4300.1100, subp. 2, eliminate the concept of approving grants for funding from more than one grant year. Thus, in order to be consistent with previously-mentioned amendments, the multi-year reference in subp. 6 must be eliminated.

Secondly, the purpose for amending Minn. Rule pt. 4300.1100, subp. 2, is to eliminate unnecessary protracted project duration and to avoid reducing future grant pools. It is not our intention to suggest that the ultimate amount of a comprehensive grant award should be reduced. There is no justification for reducing total comprehensive grant awards to less than $1.4 million. Comprehensive projects, by definition, are more expensive than single-purpose projects. A grant ceiling for comprehensive projects of $1.4 million is still necessary. Thus, by amending Minn. Rule pt. 4300.1100, subp. 2, and 4300.2000, subp. 6, as proposed, DEED reduces paperwork, reduces potential applicant confusion/noncompliance, encourages faster moving projects, and protects future grant pools without reducing the total amount for which a comprehensive grant may be approved.

It is reasonable to keep the grant ceiling for comprehensive projects at $1.4 million. Since the State began administering the program in 1983, there have been many multi-year comprehensive grant awards in amounts ranging from $1,131,699 to $1,400,000. Reducing the comprehensive grant ceiling to less than $1.4 million may compromise DEED's ability to help recipients alleviate community development problems in a truly comprehensive manner. In addition, although construction costs have been rising relatively slowly in recent years, there is little doubt that costs will continue to rise. Consequently, reducing the total comprehensive grant award ceiling to less than $1.4 million this year would probably necessitate a rule change in the near future to raise grant ceilings in order to keep pace with community development needs and escalating construction costs. Finally, Minn. Rule pt. 4300.2000, subp. 5, states "The office may recommend an application for funding in an amount less than requested if, in the opinion of the office, the amount requested is more than is necessary to meet the applicant's need. If the amount of the grant is reduced, the reasons for the reduction shall be given to the applicant." This section means DEED sets grant awards based on the needs and merits of specific applications, not simply on the amounts requested. As a result, the grant ceilings represent a maximum threshold. In fact, eleven of the nineteen DEED comprehensive projects funded in FY'86 were funded in amounts which were less than originally requested. Grant applicants cannot and should not apply for a comprehensive grant with the expectation of automatically receiving $1.4 million.

Thus, in summary, it is reasonable to keep the comprehensive grant ceiling at $1.4 million because many local governments will need that amount (or nearly that amount), and if they don't, DEED has the authority to reduce grant awards.

4300.3100, Subpart 3, Use of Program Income

> Subp. 3. Use of Program Income. Income from sources such as reimbursements to and interest from a grant recipient's loan program, proceeds from disposition of real property, and proceeds from special assessments must be used for ~~project-related costs within 12 months from the time it is earned.~~ eligible activities. The office shall reduce future grant payments by the amount of any unobligated income which an applicant has and shall take whatever additional action is necessary to recover any remaining amounts owed.

An amendment to this subpart is necessary for three reasons. First, grant management experience has taught DEED staff that it is not always feasible to use income, "within 12 months from the time it is earned." Grant recipients are allowed to design and establish loan programs which will reflect local needs and conditions. Many local loan programs, particularly in the early stages of projects, generate very small amounts of income. This condition exists because, in order to be grant eligible, the loan programs must be targeted to individuals and businesses who have a limited ability to repay. Frequently, within a given 12-month period, revolving loan accounts do not have sufficient cash to finance another loan. If that is the case, our rules force a recipient to move the funds out of their loan program and spend it on other "project-related costs." Moving money out of the revolving loan accounts defeats the purpose of establishing revolving loan programs in the first place. Moreover, there may not be any other "project-related costs" to consume program income. If that is the case, given the segment of subpart 3 which states, "The office shall reduce future grant payments by the amount of any unobligated program income that an applicant has...", grant recipients may conceivably be required to remove money from their revolving loan program and return it to the State. Again, that action tends to defeat the purpose of establishing revolving loan funds.

Secondly, a requirement of the grant recipient to use program income within twelve months from the time it is earned, implies that the State must monitor the grant recipients performance, vis-a-vis the requirement. In many instances, program income may be generated just prior to project closure. Minn. Rule pt. subp. 3, as written, requires DEED to monitor grant recipients' disposition of program income after projects are closed. Obviously, the purpose of grant closeout is to establish a date when DEED oversight of projects ends. This subpart currently does not acknowledge that distinction and, thus, should be amended as proposed.

The third reason for amending Minn. Rule pt. 4300.3100, subp. 3, relates to the statement that, "Program income from sources such as reimbursements to and interest from a grant recipient's loan program, proceeds from disposition of real property, and proceeds from special assessments must be used for project-related costs..." Specifically, the phrase, "project-related costs" needs to be amended to read, "eligible activities." Again, one reason to make this revision relates to activity completion and project closure. At the closure of a grant, a grant recipient may have program income available for use. Yet, by definition, grant closure means all "project-related costs" have been incurred. Thus, there are no more "project-related costs." A strict interpretation of the rule using the above related scenario would require the grant recipient to return the income to the State. The intent of subpart 3 was to allow grant recipients to use program income, if they could. Subpart 3, as written, unnecessarily restricts their ability to do so.

It is reasonable to substitute "eligible activities" for "project-related costs" because DEED has the authority for determining which program income may be retained by the

grantee and which program income must be returned to the State. For instance, revolving loan programs must be described in a grant application. DEED's grant agreements include the grant application by reference. Therefore, income generated by the revolving loan program must be used in the manner described in the application; i.e., an eligible activity. Use of "proceeds from the disposition of real property and proceeds form special assessments" may or may not be described in the application. If they are described, to remain an eligible activity, the grant recipient must use the income as described. If they are not described in the application, the grant recipient must request an amendment to the project (Minn. Rule pt. 4300.3100, subp. 7) and describe their proposed method for use of program income. The determination of eligibility rests with the State. If the request is for an eligible activity, the grant recipient may use the income upon approval of the amendment. If the request is not eligible, DEED can recover the income pursuant to Minn. Rule pt. 4300.3100, subp. 3.

4300.3200, Subpart 2, Audits

> Subp. 2. Audits. Grant recipients must arrange for and pay for an acceptable independent audit ~~before grant closeout.~~ prepared in compliance with OMB Circular A-128, which was published in the Federal Register, Volume 50, number 188, page 39083, on September 27, 1985, and the Single Audit Act of 1984, Public Law No. 98-502, Codified as 31 U.S.C. §§ 7501-7507. ~~Audits will usually be done annually, but no less frequently than every two years. In the case of two and three year comprehensive programs, the office shall require an audit after two years;~~ Costs incurred pursuant to this requirement are eligible under this program.

The need to amend this subpart relates to the passage of the Single Audit Act and the implementation of OMB Circular A-128. Minn. Rule pt. 4300.3200, subp. 2, briefly describes the audit requirements of OMB Circular A-102, Attachment P. The Single Audit Act of 1984 and, particularly, OMB Circular A-128 (Attached as Appendix B) "supersedes Attachment P, audit requirements of OMB Circular A-102." Thus, subpart 2 is currently obsolete, in violation of federal audit requirements, and must be updated. It is reasonable to correct program rules to conform with changes in the federal law that governs grant recipient audit requirements. The proposed language properly updates Minn. Rule pt. 4300.3200, subp. 2.

/pb
M XXI/38-CP

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT
STATE OF MINNESOTA
ST. PAUL, MINNESOTA

In the Matter of the Proposed Adoption of Amended Rules of the Department of Energy and Economic Development Governing the Community Block Grant Program

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE AMENDMENTS

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

Pauline Petroske, being first duly sworn, deposes and says:

That on the February 12, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, he/she served that attached Notice of Intent to Adopt Rule Amendments Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by the Department of Energy and Economic Development.

Pauline Petroske
Name

Subscribed and sworn to before me
this 12th day of February 1987

Richard B. Nadeau

/dh
M XXIV/58-CP

RICHARD B. NADEAU
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Apr. 8, 1987

.5700; .5800; .5900 (adopted) 1311
4300.1100; .1200; .2000; .3100; .3200 (proposed) 1433
4300.1100, s.3 (proposed repealer) 1433

HEALTH DEPARTMENT

4700.1900; .2000; .2210; .2300; .2400; .2500; .2600 (proposed) 1305
4700.2200; .2400 s.3 (proposed repealer) 1305

HIGHER EDUCATION COORDINATING BOARD

4850.0017 (adopted) 1276

HOUSING FINANCE AGENCY

4900.0356-.0358 (proposed) 1440

NURSING BOARD

6310.2800; .3400; .3500; .7600; .7700; .8000; .8100; 6315.0400; .0500 (adopted) 1331

PODIATRY BOARD

6900.0200; .0250 (adopted) 1408

POLLUTION CONTROL AGENCY

7046.0031; .0040; .0050; .0070 (proposed) 1273
7046.0030; .0050 s.2 (proposed repealer) 1273

CHARITABLE GAMBLING CONTROL BOARD

7860.0010; .0030; .0040; .0100; .0120; .0160; .0190; .0200; .0220; .0230; .0240; .0250; .0260; .0270; .0280; .0400 (adopted) 1310
7860.0070 s.1; .0220 s.2 (repealed) 1310

HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

7190.0001-.0017 (proposed) 1435

SOIL & WATER CONSERVATION BOARD

8400.3000-.5500 (emergency extended) 1463

WATER RESOURCES BOARD

9300.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170; .0180; .0190; .0200; .0210 (adopted) 1408

HUMAN SERVICES DEPARTMENT

9525.2700; .2710; .2720; .2730; .2740; .2750; .2760; .2770; .2780; .2790; .2800; .2810 (proposed) 1355
9530.2800; .5300; .6600; .6605; .6630; .6635; .6640; .6645; .6650; .6655; .6800-.7030 (proposed) 1442

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Energy and Economic Development

Proposed Permanent Rules Relating to Community Block Grants

Notice of Intent to Adopt Rule Amendments without a Public Hearing

Notice is hereby given that the Department of Energy and Economic Development intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 116J.873.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Louis Jambois
Department of Energy and Economic Development
Community Development Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-3172

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Louis Jambois upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Louis Jambois.

Dated: 30 January 1987

David J. Speer, Commissioner
Department of Energy and Economic Development

Rules as Proposed

4300.1100 TYPES OF COMPETITIVE GRANTS AVAILABLE.

Subpart 1. [Unchanged.]

Subp. 2. **Comprehensive grants.** The office shall approve comprehensive grants for two or more projects which constitute a comprehensive program as described in part 4300.0100. ~~Comprehensive grants shall be approved for funding from one, two, or three grant years. In the case of grants approved for funding from more than one grant year, the office shall make funds available to the grant recipient in the second or third year only after the recipient submits an approved application. Approval shall be subject to a finding by the office that the grant recipient has made normal progress and is in compliance with this chapter.~~

Subp. 3. [See Repealer.]

4300.1200 APPLICATION PROCESS AND REQUIREMENTS.

Subpart 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. ~~If this chapter is not adopted before September 15, 1982, the 120-day period is waived for the 1983 grant year but the office shall make the manual available no later than 60 days before the application closing date.~~

Subp. 2. to 6. [Unchanged.]

4300.2000 DETERMINATION OF GRANT AWARDS.

Subpart 1. **Funds available for grants.** The amount of funds available for grants shall be equal to the total allocation of federal funds made available to the State under United States Code, title 42, section 5306 (1981), after subtracting an amount for costs ~~incurred by~~ available to the office for administration of the program, as allowed by that law. The office is not liable for any grants under this chapter until funds are received from the United States Department of Housing and Urban Development.

Subp. 2. **Division of funds.** Of the funds available for grants in each grant year, 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 grants~~, including the second and third years of comprehensive grants approved for funding under parts 4300.1100 and 4300.1900~~. However, the office may modify the proportions of funds available for single purpose and comprehensive grants if, after review of all applications, it determines that there is a shortage of fundable applications in either category.

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.

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.

Subp. 3. to 5. [Unchanged.]

Subp. 6. **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.

4300.3100 GRANT AGREEMENTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Use of program income.** Program income from sources such as reimbursements to and interest from a grant recipient's loan program, proceeds from disposition of real property, and proceeds from special assessments must be used for ~~project-related costs within 12 months from the time it is earned~~ eligible activities. The office shall reduce future grant payments by the amount of any unobligated program income that an applicant has and shall take whatever additional action is necessary to recover any remaining amounts owed.

Subp. 4. to 7. [Unchanged.]

4300.3200 RECORD KEEPING AND MONITORING.

Subpart 1. [Unchanged.]

Subp. 2. **Audits.** Grant recipients must arrange for and pay for an acceptable independent audit ~~before grant close-out~~ prepared in compliance with OMB Circular A-128, which was published in the Federal Register, volume 50, number 188, page 39083, on September 27, 1985, and the Single Audit Act of 1984, Public Law Number 98-502, codified as 31 U.S.C. sections 7501-7507. ~~Audits will usually be done annually, but no less frequently than every two years. In the case of two- and three-year comprehensive programs, the office shall require an audit after two years;~~ Costs incurred pursuant to this requirement are eligible under this program.

Subp. 3. to 5. [Unchanged.]

REPEALER. Minnesota Rules, part 4300.1100, subpart 3 is repealed.

Hazardous Substance Injury Compensation Board

Proposed Permanent Rules Relating to Board Operation Procedure

Notice of Proposed Adoption of a Rule Without a Public Hearing

Notice is hereby given that the State Hazardous Substance Injury Compensation Board proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes § 115B.28 (1986).

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under *Minnesota Statutes*, Section 116M.01 to Section 116M.13, inclusive, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of Profile Extrusions Company (the "Company"), a Minnesota corporation. Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the renovation of certain existing manufacturing facilities and the addition thereto of 26,000 square feet of space for use in connection with the Company's business operations in the manufacture of plastic sealing systems for the door and window industry located in the City of Hastings, Dakota County, Minnesota (street address: 800 East Tenth Street, City of Hastings, Dakota County, Minnesota) (the "Project"). The initial owner, operator and manager of the Project will be the Company. The estimated maximum amount of the proposed bond issue is an amount equal to $1,000,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Economic Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

Dated: 26 March 1987

David Speer, commissioner
Department of Energy and Economic Development,
and Chairman,
Minnesota Energy and Economic
Development Authority

Department of Energy & Economic Development

Correction to Proposed Permanent Rules Relating to Community Block Grants

The Notice of Intent to Adopt Rule Amendments published in the February 16, 1987 *State Register*, Volume 11, Number 33, Page 1433, contained an incomplete citation of Statutory Authority. The complete citation should be: The Statutory authority to adopt the rule is Minnesota Statutes, Sections 116J.401, 116J.403, and 116J.873.

All persons have an additional 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Any person may make a written request for a public hearing within the 30-day comment period.

Comments or written requests for a public hearing must be submitted to:

Louis Jambois
Department of Energy & Economic Development
Community Development Division
900 American Center Building
150 E. Kellogg Blvd.
St. Paul, MN 55101
(612) 297-3172

Department of Finance

Maximum Interest Rate for Municipal Obligations in April

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Jay Kiedrowski, announced today that the maximum interest rate for municipal obligations in the month of April would be eight (8) percent per annum. Obligations which

STATE OF MINNESOTA

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption of Amended Rules of the Department of Energy and Economic Development Governing the Community Block Grants Program	FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on February 16, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on February 12, 1987. A Notice of Correction for the above-entitled rule was published in the State Register on April 6, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, Sections 14.14, Subdivision 1a and 14.22 on April 2, 1987.

The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and was published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency. No submissions or comments were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments in the record before the agency, I find the following:

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Community Block Grant Program, Parts 4300.0100 to 4300.3200 as modified are adopted this 6th day of May, 1987, pursuant to authority vested in me by Minnesota Statutes 116J.401, 116J.403, and 116J.873.

David J. Speer

David J. Speer
Commissioner

M XXIV/56-CP

In the Matter of the Proposed Adoption of Amended Rules of the Department of Energy and Economic Development Governing the Community Block Grants Program

DECLARATION OF COUNSEL

I, Christie B. Eller, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0420.

Dated: May 11, 1987.

Christie B Eller

Christie B. Eller
Special Assistant
Attorney General

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF CERTIFICATE
OF MAILING LIST

In the Matter of the Proposed Adoption of the Amended Rules of the State Department of Energy and Economic Development Governing The Community Block Grant Program.

Mary Anderson, being sworn says:

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statute 14.14, subd. 1 and 14.22 or 14.30, that their names be placed on file with and maintained by the State Department of Energy and Economic Development for the purpose of receiving notice of the proposed adoption of rules by the Department of Energy and Economic Development is accurate, complete and current as of Monday, March 30, 1987].

Subscribed and sworn to before me
this 2nd day of April, 1987. Bonnie S Burt
NAME

TITLE

BONNIE S. BURT
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Aug. 23, 1989

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF CERTIFICATE
OF MAILING LIST

In the Matter of the Proposed Adoption of the Amended Rules of the State Department of Energy and Economic Development Governing The Community Block Grant Program.

Mary Andersen, being sworn says:

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statute 14.14, subd. 1 and 14.22 or 14.30, that their names be placed on file with and maintained by the State Department of Energy and Economic Development for the purpose of receiving notice of the proposed adoption of rules by the Department of Energy and Economic Development is accurate, complete and current as of Wednesday February 4, 1987.

Subscribed and sworn to before me
this 6th day of February, 1987.

Richard B. Nadeau

RICHARD B. NADEAU
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Apr. 8, 1987

NAME

TITLE

Appendix A.

MONITORING REPORT

State of Minnesota

Community Development Block Grants:
States Program

B-85-DC-27-0001

U.S. Department of Housing and Urban Development
Community Planning and Development Division

September 5, 1985

Although we will not make a conclusion as to the acceptability of past performance of the applicants there certainly was material in the files which led our reviewer to question the performance.

2) The State awarded several grants in an amount less than requested. The Statement at 10 MCAR 1.550 E notes that "the reasons for the reduction shall be given to the applicant." There was no evidence of such communications.

(As an aside, we suggest that the reviews note more carefully whether the ratings reflect the scores of the applications as they had been submitted, or of the applications as they had been reduced.)

For both of the above areas, please describe the action you will take to resolve the findings.

We found that in one area the State did not distribute funds in complete accordance with its Statement. This area pertained to the amount of FY'85 funds which would be allocated to administration, competitive single purpose and comprehensive grants. The section "Funds Available for Grants" at 10 MCAR 1.550 A and B, and the section "Proposed Distribution of Funds" describe the distribution of FY'85 funds. Other sections amend previous Statements to discuss the re-use of recaptured funds. We believe the deficiencies cited below were inadvertent or arose from merely not precisely specifying what the State intended to do.

First, in discussing the amount of funds available for grants (10 MCAR 1.550 A) you note that you will "subtract[ing] an amount for costs incurred by the office for administration of the program as allowed by that law" (emphasis added). Actually the amount subtracted was the amount available for administration. Very little, if any, administrative expenses had actually been incurred.

Secondly, the sections describing the specific dollar amounts and percentages of funds are a part of the FY'85 Statement. Thus the dollar base figure to which the percentages apply is the FY'85 grant amount (minus administrative expenses). However, you applied the percentage to the entire amount distributed--which included FY'85 funds and recaptured FY'83 and FY'84 funds.

The resulting discrepancies are small, but they do exist. For example the FY'85 Statement noted that $6,380,964 will be reserved for single purpose grants. However, only $6,315,715 in '85 funds was awarded to these grants.

In both of the above areas please describe the action you will take to avoid this finding in the future.

Appendix B

Appendix XIII

OMB CIRCULAR #A-128

Audits of State and Local Governments

1. **Purpose.** This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98-502. It establishes audit requirements for state and local governments that receive federal aid and defines federal responsibilities for implementing and monitoring those requirements.

2. **Supersession.** The Circular supersedes Attachment P, "Audit Requirements," of Circular A-102, "Uniform Requirements for Grants to State and Local Governments."

3. **Background.** The Single Audit Act builds upon earlier efforts to improve audits of federal aid programs. The Act requires state or local governments that receive $100,000 or more a year in federal funds to have an audit made for that year. Section 7505 of the Act requires the Director of the Office of Management and Budget to prescribe policies, procedures, and guidelines to implement the Act. It specifies that the Director shall designate "cognizant" federal agencies, determine criteria for making appropriate charges to federal programs for the cost of audits, and provide procedures to assure that small firms or firms owned and controlled by disadvantaged have the opportunity to participate in contracts for single audits.

4. **Policy.** The Single Audit Act requires the following:

   a. State or local governments that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this Circular.

   b. State or local governments that receive between $25,000 and $100,000 a year shall have an audit made in accordance with this Circular, or in accordance with federal laws and regulations governing the programs they participate in.

   c. State or local governments that receive less than $25,000 a year shall be exempt from compliance with the Act and other federal audit requirements. These state and local governments shall be governed by audit requirements prescribed by state or local law or regulation.

   d. Nothing in this paragraph exempts state or local governments from maintaining records of federal financial assistance or from providing access to such records to federal agencies, as provided for in federal law or in Circular A-102, "Uniform Requirements for Grants to State or Local Governments."

5. **Definitions.** For the purposes of this Circular, the following definitions from the Single Audit Act apply:

   a. "Cognizant agency" means the federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 11 of this Circular.

   b. "Federal financial assistance" means assistance provided by a federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct federal cash assistance to individuals. It includes awards received directly from federal agencies or indirectly through other units of state and local governments.

   c. "Federal agency" has the same meaning as the term "agency" in Section 551(1) of Title 5, United States Code.

   d. "Generally-accepted accounting principles" has the meaning specified in the generally-accepted government auditing standards.

e. "Generally-accepted government auditing standards" means the **Standards for Audit of Government Organizations, Programs, Activities, and Functions,** developed by the Comptroller General, dated February 27, 1981.

f. "Independent auditor" means:

(1) a state or local government auditor who meets the independence standards specified in generally-accepted government auditing standards; or

(2) a public accountant who meets such independence standards.

g. "Internal controls" means the plan of organization and methods and procedures adopted by management to ensure that:

(1) resource use is consistent with laws, regulations, and policies;

(2) resources are safeguarded against waste, loss, and misuse; and

(3) reliable data are obtained, maintained, and fairly disclosed in reports.

h. "Indian tribe" means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

i. "Local government" means any unit of local government within a state, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

j. "Major Federal Assistance Program", as defined by P.L. 98-502, is described in the Attachment to this Circular.

k. "Public accountants" means those individuals who meet the qualification standards included in generally-accepted government auditing standards for personnel performing government audits.

l. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-state, regional, or interstate entity that has governmental functions and any Indian tribe.

m. "Subrecipient" means any person or government department, agency, or establishment that receives federal financial assistance to carry out a program through a state or local government but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of federal financial assistance.

6. **Scope of Audit.** The Single Audit Act provides that:

a. The audit shall be made by an independent auditor in accordnce with generally-accepted government auditing standards covering financial and compliance audits.

b. The audit shall cover the entire operations of a state or local government or at the option of that government, it may cover departments, agencies, or establishments that received, expended, or otherwise administered federal financial assistance during the year. However, if a state or local government receives $25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

c. Public hospitals and public colleges and universities may be excluded from state and local audits and the requirements of this Circular. However, if such entities are excluded, audits of these entities shall be made in accordance

with statutory requirements and the provisions of Circular A-110, "Uniform Requirements for Grants to Universities, Hospitals, and Other Nonprofit Organizations."

d. The auditor shall determine whether:

(1) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally-accepted accounting principles;

(2) the organization has internal accounting and other control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations; and

(3) the organization has complied with laws and regulations that may have material effect on its financial statements and on each major federal assistance program.

7. **Frequency of audit.** Audits shall be made annually unless the state or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual but only for fiscal years beginning before January 1, 1987.

8. **Internal control and compliance reviews.** The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing federal assistance programs in compliance with applicable laws and regulations.

a. **Internal control review.** In order to provide this assurance, the auditor must make a study and evaluation of internal control systems used in administering federal assistance programs. The study and evaluation must be made, whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

b. **Compliance review.** The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, state and local governments shall identify in their accounts all federal funds received and expended and the programs under which they were received. This shall include funds received directly from federal agencies and through other state and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgement, considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services, the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(a) In making the test of transactions, the auditor shall determine whether:

- the amounts reported as expenditures were for allowable services, and

- the records show that those who received services or benefits were eligible to receive them.

(b) In addition to transaction testing, the auditor shall determine whether:

- matching requirements, levels of effort, and earmarking limitations were met,
- federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and
- amounts claimed or used for matching were determined in accordnce with OMB Circular A-87, "Cost principles for state and local governments", and Attachment F of Circular A-102, "Uniform Requirements for Grants to State and Local Governments".

(c) The principal compliance requirements of the largest federal aid programs may be ascertained by referring to the **Compliance Supplement for Single Audits of State and Local Governments,** issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with federal laws and regulations that apply to such transactions.

9. **Subrecipients.** State or local governments that receive federal financial assistance and provide $25,000 or more of it in a fiscal year to a subrecipient shall:

a. determine whether state or local subrecipients have met the audit requirements of this Circular and whether subrecipients covered by Circular A-110, "Uniform Requirements for Grants to Universities, Hospitals, and Other Nonprofit Organizations", have met that requirement;

b. determine whether the subrecipient spent federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this Circular, Circular A-110, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

c. ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with federal laws and regulations;

d. consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

e. require each subrecipient to permit independent auditors to have access to the records and financial statements, as necessary to comply wit this Circular.

10. **Relation to other audit requirements.** The Single Audit Act provides that an audit made in accordance with this Circular shall be in lieu of any financial or financial compliance audit required under individual federal assistance programs. To the extent that a single audit provides federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a federal agency shall make any additional audits which are necessary to carry out its responsibilities under federal law and regulation. Any additional federal audit effort shall be planned and carried out in such a way as to avoid duplication.

a. The provisions of this Circular do not limit the authority of federal agencies to make or contract for audits and evaluations of federal financial assistance programs, nor do they limit the authority of any federal agency inspector general or other federal audit official.

b. The provisions of this Circular do not authorize any state or local government or subrecipient thereof to constrain federal agencies, in any manner, from carrying out additional audits.

c. A federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

11. **Cognizant agency responsibilities.** The Single Audit Act provides for cognizant federal agencies to oversee the implementation of this Circular.

a. The Office of Management and Budget will assign cognizant agencies for states and their subdivisions and larger local governments and their subdivisions. Other federal agencies may participate with an assigned cognizant agency in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the federal agency that provides them the most funds, whether directly or indirectly.

b. A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.

(2) Provide technical advice and liaison to state and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-federal audit organizations and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected federal agencies and appropriate federal law enforcement officials of any reported illegal acts or irregularities. They should also inform state or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for federal agencies that are in addition to the audits made pursuant to this Circular; so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

12. **Illegal acts or irregularities.** If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. [See also paragraph 13a(3) below for the auditor's reporting responsibilities.] The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

13. **Audit Reports.** Audit reports must be prepared at the completion of the audit. Reports serve many needs of state and local governments, as well as meeting the requirements of the Single Audit Act.

a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of federal assistance; the financial statements; and a schedule of federal assistance, showing the total expenditures for each federal assistance program, as identified in the Catalog of Federal Domestic Assistance. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other federal assistance".

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

(a) a statement of positive assurance, with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

(b) negative assurance on those items not tested;

(c) a summary of all instances of noncompliance; and

(d) an identification of total amounts questioned, if any, for each federal assistance award, as a result of noncompliance.

b. The three parts of the audit report may be bound into a single report or presented at the same time as separate documents.

c. All fraud, abuse, or illegal acts, or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with paragraph 13f.

d. In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

e. The reports shall be made available by the state or local government for public inspection within 30 days after the completion of the audit.

f. In accordance with generally-accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each federal department or agency that provided federal assistance funds to the recipient. Subrecipients shall submit copies to recipients that provided them federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period, unless a longer period is agreed to with the cognizant agency.

g. Recipients of more than $100,000 in federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with state and local governments that have not submitted required audit reports.

h. Recipients shall keep audit reports on file for three years from their issuance.

14. **Audit Resolution.** As provided in paragraph 11, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one federal agency. Resolution of findings that relate to the programs of a single federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

Resolution shall be made within six months after receipt of the report by the federal departments and agencies. Corrective action should proceed as rapidly as possible.

15. **Audit workpapers and reports.** Workpapers and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office at the completion of the audit.

16. **Audit costs.** The cost of audits made in accordance with the provisions of this Circular are allowable charges to federal assistance programs.

    a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provisions of Circular A-87, "Cost Principles for State and Local Governments".

    b. Generally, the percentage of costs charged to federal assistance programs for a single audit shall not exceed the percentage that federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

17. **Sanctions.** The Single Audit Act provides that no cost may be charged to federal assistance programs for audits required by the Act that are not made in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit, federal agencies must consider other appropriate sanctions, including:

    a. withholding a percentage of assistance payments until the audit is completed satisfactorily,

    b. withholding or disallowing overhead costs, and

    c. suspending the federal assistance agreement until the audit is made.

18. **Auditor selection.** In arranging for audit services, state and local governments shall follow the procurement standards prescribed by Attachment O of Circular A-102, "Uniform Requirements for Grants to State and Local Governments". The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by state statutes (e.g., audit services), these statutes will take precedence.

19. **Small and Minority Audit Firms.** Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular. Recipients of federal assistance shall take the following steps to further this goal:

    a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

    b. Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

    c. Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

    d. Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

    e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

    f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

20. **Reporting.** Each federal agency will report to the Director of OMB on or before March 1, 1987 and annually thereafter on the effectiveness of state and local governments in carrying out the provisions of this Circular. The report must identify each state or local government or Indian tribe that, in the opinion of the agency, is failing to comply with the Circular.

21. **Regulations.** Each federal agency shall include the provisions of this Circular in its regulations implementing the Single Audit Act.

22. **Effective date.** This Circular is effective upon publication and shall apply to fiscal years of state and local governments that begin after December 31, 1984. Earlier implementation is encouraged. However, until it is implemented, the audit provisions of Attachment P to Circular A-102 shall continue to be observed.

23. **Inquiries.** All questions or inquiries should be addressed to Financial Management Division, Office of Management and Budget, telephone number (202) 395-3993.

24. **Sunset review date.** This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT
STATE OF MINNESOTA
ST. PAUL, MINNESOTA

In the Matter of the Proposed Adoption of Amended Rules of the Department of Energy and Economic Development Governing the Community Block Grant Program

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE AMENDMENTS

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

Louis F. Jambois, being first duly sworn, deposes and says:

That on the April 2, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, he/she served that attached Notice of Intent to Adopt Rule Amendments Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by the Department of Energy and Economic Development.

Louis F. Jambois
Name

Subscribed and sworn to before me
this 2nd day of April 1987

Bonnie S. Burt

/dh
M XXIV/58-CP

BONNIE S. BURT
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires Aug. 23, 1989

Department of Energy & Economic Development Proposed Permanent Rules Relating to Community Block Grants

The Notice of Intent to Adopt Rule Amendments published in the February 16, 1987 State Register, Volume 11, Number 33, Page 1433, contained an incomplete citation of Statutory Authority. The complete citation should be: The Statutory authority to adopt the rule is Minnesota Statutes, Sections 116J.401, 116J.403, and 116J.873.

All persons have an additional 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Any person may make a written request for a public hearing within the 30-day comment period.

Comments or written requests for a public hearing must be submitted to:

Louis Jambois
Department of Energy & Economic Development
Community Development Division
900 American Center Building
150 E. Kellogg Blvd.
St. Paul, MN 55101
(612) 297-3172

M XXVIII/59-CP

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL - Bremer

DATE : May 11, 1987

TO : RITA DESMOND, Legal Assistant
Attorney General - Administration Division

FROM : CHRISTIE B. ELLER CBE
Special Assistant Attorney General

PHONE : 296-9200

SUBJECT : IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDED RULES OF THE DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT GOVERNING THE COMMUNITY BLOCK GRANTS PROGRAM

Enclosed please find submitted to you for review the following rulemaking documents with respect to the above-entitled rules.

- Copy of proposed rule with Revisor's certificate
- Notice of Intent to Adopt Rules as mailed
- Correction to the Notice of Intent to Adopt rules as mailed
- Statement of Need and Reasonableness
- Affidavit of mailing Notice of Intent to Adopt
- Affidavit of Certificate of mailing list used to mail Notice of Intent
- Affidavit of mailing correction to Notice of Intent to Adopt
- Affidavit of Certificate of mailing list used to mail Notice of Correction
- A photocopy of the Notice of Intent as published in the State Register
- A photocopy of the correction to the Notice of Intent as published in the State Register
- Four copies of the rules as adopted
- Findings of Fact, Conclusions and Order
- Declaration of Counsel

The correction to the Notice of Intent was made because the original notice did not fully cite to all the statutes authorizing the rules. If you have any questions regarding this matter, please do not hesitate to contact me.

CBE/smo
Enclosures