

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

JAL

RULE REVIEW CHECKLIST

File No. 1626 — Docket No. 05-0009-0415

DATE RECEIVED 9-11-89 — ADOPTED W/O HEARING ✓

REVIEW DATE 9-20-89 — EMERGENCY RULE _____

DUE DATE 9-25-89 — To Revisor: 9-18-89

APPROVED 9/22/89 — REVISOR APPROVED ✓

DISAPPROVED _____ — REVISOR DISAPPROVED _____

WITHDRAWN _____ — FILED W/SEC. OF STATE 9-26-89

RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
- _____ Date published in State Register — message called 9-21-89
- _____ Comments

_____ Petition for Adoption of a Rule (if applicable)

_____ Board's Authorizing Resolution
- _____ Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate — Vicki 739-6041

_____ Notice of Intent to Adopt Rule
- 116J.401, 116J.403, 116J.873 Statutory Authority — Becker 7-1940
- NO Small Business Statement
- NO Expenditure of public money statement
- yes Signature — someone signed for the Commissioner

✓ Statement of Need and Reasonableness (if applicable)
- NO Small Business Statement
- NO Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Feb. 10, 1989 Date 30/25 days before adoption — Can't calculate
- NO Notice attached
- NO Copy of rule or summary attached

✓ Publication in State Register
- Feb 13, 1989 Date 30/25 days before adoption — Can't calculate

NO 180-day deadline from:
- _____ Effective date of law requiring rule (14.12) (both rules)
- NO end of comment period (§ 14.26) (rules without hearing) — 2/13, pass March 15
- _____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
- _____ Date adopted

_____ Findings of Fact, Conclusions & Order Adopting
- no date Date

_____ Written requests, submissions or comments

✓ Declaration of attorney
- Karl Sonneman Name of SAAG representing agency

_____ Notice of Submission to Atty. Gen. (if applicable)

_____ Aff. of Mailing Notice to Atty. Gen. (if applicable)

'30/87

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

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

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

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

II. STATEMENT OF COMMISSIONER'S STATUTORY AUTHORITY

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

116J.401 POWERS AND DUTIES

The Commissioner of Trade and Economic Development shall:

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

116J.403 RULES

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

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

116J.873 ECONOMIC RECOVERY GRANTS

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

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

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

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

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

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

III. STATEMENT OF NEED

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

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

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

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

The Community Development Application will entail the following activities:

1. The applicant will submit a Community Development application form which will describe the needs of the community and any potential projects the applicant is planning to undertake. This application can access any of the division's 10 financing programs.

2. A review team comprised of Community Development staff will review these applications on a weekly basis.

3. When the review has been completed, the applicant will meet with division staff to discuss funding programs both within the division and outside the division. If there is a potential for financing assistance within the division, relevant program manuals and forms packets for specific programs will be provided.

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

IV. STATEMENT OF REASONABLENESS

A. Reasonableness of the Rules as a Whole

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

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

B. Reasonableness of Individual Rules

4300.0100, Subpart 2. Application Year.

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

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

4300.0100, Subpart 3. Commissioner.

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

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

4300.0100, Subpart ~~5~~4. Community Development Application.

Subp. ~~5~~4. Community Development Application. "Community Development Application" means the official consolidated application form as

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

4300.0100, Subpart 20. Division.

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

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

4300.0100, Subpart 25. Program Area.

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

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

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

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

Subp. ~~24~~ 26. ~~Regional or Community Development Plans. "Regional or community development plans" means written documents, resolutions, or statements which describe goals, policies, or strategies for the physical, social, or economic development of a neighborhood, community, or substate area. Regional or community development plans include comprehensive plans and elements of comprehensive plans, including land use plans, which have been approved by the governing boards of townships, counties, or cities, and also include regional development plans adopted under Minn. Stat. §462.281, where applicable.~~

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

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

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

4300.0100. Subpart 30. Single-Purpose Project.

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

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

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

4300.0200. Purpose.

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

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

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

4300.1100, Subpart 1. Single-Purpose Grants.

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

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

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

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

4300.1101. Economic Development Grants, Non-competitive.

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

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

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

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

4300.1200, Subpart 1. Community Development Application Manual.

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

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

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

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

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

4300.1200, Subpart 2. Eligibility Requirements.

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

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

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

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

4300.1200, Subpart 4. Contents of Application.

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

A. Needs Narrative - summarizing the needs for the proposed project;

B. Project Summary - summarizing the activities to be completed and the scope of the project;

C. Activities and Budget - detailing the estimates associated with each proposed activity;

D. Assurances - necessary to comply with federal or state requirements as a prerequisite to receiving state or federal funding;

E. Resolution - from the submission of the local government applicant approving the application and authorizing execution of the grant agreement in accordance with the requirements of the Community Development Division if funds are made available.

F. Supporting Materials - Attachments which are designed to verify or support information presented in A. through E. above.

~~A. An assurance, signed by the chief elected official, that the applicant will comply with all applicable state and federal requirements;~~

~~B. An assurance signed by the chief elected official certifying that at least one public hearing was held at least ten days but not more than 60 days before submitting the application; and~~

~~C. A copy of a resolution passed by the governing body approving the application and authorizing execution of the grant agreement if funds are made available.~~

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

There are several changes proposed for this subpart.

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

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

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

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

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

4300.1200, Subpart 5. Time Limit for Submitting Applications.

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

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

In accordance with Minn. Rules 4300.0100, Subpart ~~30~~ 4, as proposed, both competitive and economic development applications may be submitted throughout the application year. It is necessary to amend 4300.1200, Subpart 5, to illustrate that a formal process will be used to notify potential applicants that the closing date for submittal of competitive applications is only 120 days away. It is, therefore, reasonable to make this change.

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

4300.1400, Subpart 3.A.

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

A. The extent to which the proposed activities are compatible with ~~regional or community development plans; and~~ the Housing and Community Development Needs Assessment; and

B. Adequacy of the applicant's management and financial plan.

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

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

SAM II/2-CP (1-5)

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SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : September 26, 1989

TO : Ms. Carol Pressley-Olson
DTED
780 American Center Building

FROM : JULIE A. LEPPINK
Special Assistant Attorney General
525 Park Street, Suite 500

PHONE : 296-9422

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

The above-referenced rule has been approved as to its legality by the Attorney General on September 26, 1989.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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.

JAL:BBL.AA6
Enclosures

cc: William Brown, Chief Judge
MaryAnn Hruby
Jon Kingstad, S.A.A.G.

FILE COPY

Department of Trade and Economic Development

Adopted Permanent Rules Relating to Community Block Grants

Rules as Adopted

4300.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them.

Subp. 2. **Application year.** "Application year" means the state fiscal year beginning July 1 and ending June 30.

Subp. 2a. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Trade and Economic Development.

Subp. 2b. **Community development application.** "Community development application" means the official consolidated application form as developed by the Department of Trade and Economic Development to be used to apply for funding assistance from various community assistance programs administered by the community development division.

Subp. 3. to 5. [Unchanged.]

Subp. 5a. **Division.** "Division" means the community development division in the Department of Trade and Economic Development to which the program is assigned.

Subp. 6. to 9. [Unchanged.]

Subp. 10. **Grant close out.** "Grant close out" means the process by which the division determines that all applicable administrative actions and all required work have been completed by the grant recipient and the department.

Subp. 11. **Grant year.** "Grant year" means any period of time during which the United States Department of Housing and Urban Development makes funds from any federal fiscal year available to the state for distribution to local governments under United States Code, title 42, sections 5301 to 5316 (1981), and includes the period of time during which the division solicits applications and makes grant awards.

Subp. 11a. **Housing and community development needs assessment.** "Housing and community development needs assessment" means an analysis of priority community needs as required by Section 104 of the Housing and Community Development Act of 1974, United States Code, title 42, section 5304(b)(3).

Subp. 12. to 15. [Unchanged.]

Subp. 16. [See Repealer.]

Subp. 17. to 20. [Unchanged.]

Subp. 21. **Program area.** "Program area" means a defined geographic area within which an applicant has determined that there exists a need for community development activities. A program area may be a neighborhood in a community or an entire community.

Subp. 22. and 23. [Unchanged.]

Subp. 24. [See Repealer.]

Subp. 25. [Unchanged.]

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

Subp. 27. [Unchanged.]

4300.0200 PURPOSE.

This Chapter gives procedures for evaluating applications for grants and awarding them to eligible applicants by the Department of Trade and Economic Development under United States Code, title 42, sections 5301 to 5316 (1981), and regulations adopted in Code of Federal Regulations, title 24, part 570, and under Minnesota Statutes, section 116J.873.

4300.1100 TYPES OF COMPETITIVE GRANTS AVAILABLE.

Subpart 1. **Single purpose grants.** The division shall approve grant applications for funding for single purpose projects. The division shall place single purpose grant applications in one of the following categories for purposes of evaluation:

A. housing projects which include one or more

activities designed to increase the supply or quality of dwellings suited to the occupancy of individuals and families; or

B. public facilities projects which include one or more activities designed to acquire, construct, reconstruct, or install buildings or infrastructure which serve a neighborhood area or community.

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

4300.1101 ECONOMIC DEVELOPMENT GRANTS; NONCOMPETITIVE.

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

4300.1200 APPLICATION PROCESS AND REQUIREMENTS.

Subpart 1. **Community development application manual.** The division shall make the community development application manual, additional instructional materials, and forms available on a year-round basis. The manual and additional materials and forms shall instruct applicants in the preparation of applications and describe the method by which the division will evaluate and rank applications.

Subp. 2. **Eligibility requirements.** Any unit of general purpose local government, including cities, counties, and townships located in a nonentitlement area or electing exclusion from an urban county under United States Code, title 42, section 5302 (1981), may apply for a grant. An eligible applicant may apply on behalf of other eligible applicants. Applications submitted on behalf of other applicants must be approved by the governing body of all local governments party to the application. An eligible applicant may receive only one competitive grant per grant year and no eligible applicant shall be included in more than one competitive application. An eligible applicant may receive one economic development grant in addition to a competitive grant each application year.

Subp. 3. **Disqualification of applicants.** Applications from otherwise eligible applicants shall be disqualified where for previously awarded grants under these parts or awarded by the Department of Housing and Urban Development under United States Code, title 42, section 5306 (1981), it is determined by the division that any of the following conditions exist:

A. there are outstanding audit findings on previous community development grants and the grantee has not objected on a reasonable basis to the findings or demonstrated a willingness to resolve the findings;

B. previously approved projects have passed scheduled dates for grant close out and the grantee's ability to complete the project in an expeditious manner is in question; or

C. the applicant has not made scheduled progress on previously approved projects and the grantee's ability to complete the project in an expeditious manner is in question.

Subp. 4. **Contents of community development application.** The contents of a community development application must be consistent with the informational requirements of this chapter and must be on a form prescribed by the division. A complete community development application shall include, but not be limited to:

A. needs narrative, summarizing the needs for the proposed project;

B. project summary, summarizing the activities to be completed and the scope of the project;

C. activities and budget, detailing the estimates associated with each proposed activity;

D. assurances, necessary to comply with the federal or state requirements as a prerequisite to receiving state or federal funding;

E. resolution, from the submission of the local government applicant approving the application and authorizing execution of the grant agreement according to the requirements of the community development division if funds are made available; and

F. supporting materials, attachments that are designed to verify or support information in items A to E.

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

Subp. 5. **Time limit for submitting applications.** While competitive applications may be submitted at any time during the year, a formal yearly closing date for receipt of applications shall be established. Complete competitive applications shall be evaluated following the closing date for competitive applications. The notice must be published in the State Register at least 120 days before the closing date. Economic development project applications may be submitted at any time during the application year.

Subp. 6. **Regional review.** The applicant must submit a complete copy of the application to the Regional Development Commission, where such a commission exists, or the Metropolitan Council, where it has jurisdiction, for review and comment in accordance with Minnesota Statutes, section 462.391, subdivision 3, or Minnesota Statutes, section 473.171, respectively.

4300.1400 COMPARISON OF ALL COMPETITIVE APPLICATIONS; GENERAL COMPETITION.

Subpart 1. **Points available.** Thirty percent of the total available points shall be awarded by the division based on a general competition involving a comparison of all applications.

Subp. 2. **Evaluation of community need.** Two-thirds of the points in the general competition shall be awarded based on evaluation of community need, which shall include:

A. the number of poverty persons in the area under the applicant's jurisdiction;

B. the percentage of persons resident in the area under the applicant's jurisdiction who are poverty persons; and

C. the per capita assessed valuation of the area under the jurisdiction of the applicant, such that points are awarded in inverse relationship to applicants' per capita

assessed valuation.

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

A. the extent to which the proposed activities are compatible with the housing and community development needs assessment; and

B. adequacy of the applicant's management and financial plan.

REPEALER. Minnesota Rules, part 4300.0100, subparts 16 and 24, are repealed.

APPROVED AS TO FORM AND LEGALITY
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

SEP 26 1989

Joan Anderson Growe
Secretary of State

12:50 pm

APPROVED AS TO FORM AND LEGALITY

Sept 22 19 89

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

Office of the Revisor of Statutes
Administrative Rules

Carla M. Riehle
Assistant Revisor
297-2948

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

January 30, 1989

Ms. Carol Pressley-Olson
Department of Trade and Economic Development
900 American Center Building
150 East Kellogg Boulevard
Saint Paul, Minnesota 55101

RE: File No. 1452

Dear Ms. Pressley-Olson:

I am enclosing six copies of your rules, approved as to form. Please submit two copies to the State Register for publication.

If you have any questions, please call me.

Very truly yours,

Carla M. Riehle

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Community Block Grants

AGENCY: Department of Trade and Economic Development

MINNESOTA RULES: Chapter 4300

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Department of Trade and Economic Development

Proposed Permanent Rules Relating to Community Block Grants

Rules as Proposed

4300.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them.

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

Subp. 2a. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Trade and Economic Development.

Subp. 2b. **Community development application.** "Community development application" means the official consolidated application form as developed by the Department of Trade and Economic Development to be used to apply for funding assistance from various community assistance programs administered by the community development division.

Subp. 3. to 5. [Unchanged.]

Subp. 5a. **Division.** "Division" means the community development division in the Department of Trade and Economic Development to which the program is assigned.

Subp. 6. to 9. [Unchanged.]

Subp. 10. **Grant close out.** "Grant close out" means the process by which the ~~office~~ division determines that all applicable administrative actions and all required work have been completed by the grant recipient and the department.

Subp. 11. **Grant year.** "Grant year" means any period of time during which the United States Department of Housing and Urban Development makes funds from any federal fiscal year available to the state for distribution to local governments under United States Code, title 42, sections 5301 to 5316 (1981), and includes the period of time during which the ~~office~~

Approved by Revisor CMR

division solicits applications and makes grant awards.

Subp. 11a. **Housing and community development needs assessment.** "Housing and community development needs assessment" means an analysis of priority community needs as required by Section 104 of the Housing and Community Development Act of 1974, United States Code, title 42, section 5304(b)(3).

Subp. 12. to 15. [Unchanged.]

Subp. 16. [See Repealer.]

Subp. 17. to 20. [Unchanged.]

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

Subp. 22. and 23. [Unchanged.]

Subp. 24. [See Repealer.]

Subp. 25. [Unchanged.]

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

Subp. 27. [Unchanged.]

4300.0200 PURPOSE.

This Chapter gives procedures for evaluating applications for grants and awarding them to eligible applicants by the Department of Trade and Economic Development under United States Code, title 42, sections 5301 to 5316 (1981), and regulations adopted in Code of Federal Regulations, title 24, part 570, and under Minnesota Statutes, section 116J.873.

4300.1100 TYPES OF COMPETITIVE GRANTS AVAILABLE.

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

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by Revisor _____

evaluation:

A. housing projects which include one or more activities designed to increase the supply or quality of dwellings suited to the occupancy of individuals and families; or

B. public facilities projects which include one or more activities designed to acquire, construct, reconstruct, or install buildings or infrastructure which serve a neighborhood area or community.

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

4300.1101 ECONOMIC DEVELOPMENT GRANTS; NONCOMPETITIVE.

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

4300.1200 APPLICATION PROCESS AND REQUIREMENTS.

Subpart 1. **~~Grant~~ Community development application manual.** The ~~office~~ division shall ~~prepare a manual for distribution to eligible applicants no later than 120 days before the application closing date for competitive applications~~ make the community development application manual, additional instructional materials, and forms available on a year-round basis. The manual ~~must~~ and additional materials and forms shall instruct applicants in the preparation of applications and describe the method by which the ~~office~~ division will evaluate and rank applications.

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

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

Subp. 3. **Disqualification of applicants.** Applications from otherwise eligible applicants shall be disqualified where for previously awarded grants under these parts or awarded by the Department of Housing and Urban Development under United States Code, title 42, section 5306 (1981), it is determined by the ~~office~~ division that any of the following conditions exist:

A. there are outstanding audit findings on previous community development grants and the grantee has not objected on a reasonable basis to the findings or demonstrated a willingness to resolve the findings;

B. previously approved projects have passed scheduled dates for grant close out and the grantee's ability to complete the project in an expeditious manner is in question; or

C. the applicant has not made scheduled progress on previously approved projects and the grantee's ability to complete the project in an expeditious manner is in question.

Subp. 4. **Contents of community development application.** The contents of ~~the~~ a community development application must be consistent with the informational requirements of this chapter and must be on a form prescribed by the ~~office~~ division. ~~The application must be accompanied by:~~

~~A. an assurance, signed by the chief elected official, that the applicant will comply with all applicable state and federal requirements;~~

~~B. an assurance signed by the chief elected official certifying that at least one public hearing was held at least ten days but not more than 60 days before submitting the application; and~~

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~~c.--a-copy-of-a-resolution-passed-by-the-governing body-approving-the-application-and-authorizing-execution-of-the grant-agreement-if-funds-are-made-available.~~ A complete community development application shall include, but not be limited to:

A. needs narrative, summarizing the needs for the proposed project;

B. project summary, summarizing the activities to be completed and the scope of the project;

C. activities and budget, detailing the estimates associated with each proposed activity;

D. assurances, necessary to comply with the federal or state requirements as a prerequisite to receiving state or federal funding;

E. resolution, from the submission of the local government applicant approving the application and authorizing execution of the grant agreement according to the requirements of the community development division if funds are made available; and

F. supporting materials, attachments that are designed to verify or support information in items A to E.

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

Subp. 5. **Time limit for submitting applications.** ~~Competitive-applications-must-be-received-in-the-office-or postmarked-by-the-closing-date.--The-office-shall-give-notice-of the-period-during-which-applications-will-be-accepted.~~ While competitive applications may be submitted at any time during the year, a formal yearly closing date for receipt of applications shall be established. Complete competitive applications shall be evaluated following the closing date for competitive applications. The notice must be published in the State Register at least 120 days before the closing date. Economic development project applications may be submitted at any time during the ~~grant~~ application year.

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Subp. 6. **Regional review.** The applicant must submit a complete copy of the application to the Regional Development Commission, where such a commission exists, or the Metropolitan Council, where it has jurisdiction, for review and comment in accordance with Minnesota Statutes, section 462.391, subdivision 3, or Minnesota Statutes, section 473.171, respectively.

4300.1400 COMPARISON OF ALL COMPETITIVE APPLICATIONS; GENERAL COMPETITION.

Subpart 1. **Points available.** Thirty percent of the total available points shall be awarded by the ~~office~~ division based on a general competition involving a comparison of all applications.

Subp. 2. **Evaluation of community need.** Two-thirds of the points in the general competition shall be awarded based on evaluation of community need, which shall include:

A. the number of poverty persons in the area under the applicant's jurisdiction;

B. the percentage of persons resident in the area under the applicant's jurisdiction who are poverty persons; and

C. the per capita assessed valuation of the area under the jurisdiction of the applicant, such that points are awarded in inverse relationship to applicants' per capita assessed valuation.

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

A. the extent to which the proposed activities are compatible with ~~regional or community development plans~~ the housing and community development needs assessment; and

B. adequacy of the applicant's management and financial plan.

REPEALER. Minnesota Rules, part 4300.0100, subparts 16 and 24, are repealed.

Approved
by Revisor _____

Authority

116J.401 - grants authority of commissioner (2) receive and administer small cities community dev. block grant program authorized by Congress

116J.403 - no money may be spent for small cities community development block grant program for community dev. . . . until the commissioner adopts rules prescribing standards to govern the expenditure

116J.873

Subd. 3. Grant evaluation. Division of community development shall accept, review, and evaluate applications for grants to local units of gov. made in accordance with rules adopted for economic development grants

Does commissioner have authority to promogate rules Yes.

- No Notice to Solicit Outside Information

on 9-21-89, I called Louis Jambois - he was out until 9-25-89. I talked to Vicki Lepk. She said the agency did not solicit outside opinion.

Notice of Intent

2010.0300 E (6) - notice does not state that the person should state their name and address

" " " " (11) there is not a statement that the rule is either attached to the notice or a statement describing the rule - there is a statement that you can get a free copy

Findings of Fact, Conclusions, and Order Adopting Rules

2010.0300 K (2) no indication published in State Reg.

2010.0300 K (8) - not dated *

9-21-89

on 9-21-89 called Louis Jambois at Trade and Economic Development - out until 9-25-89. Called Vickie Leph who worked on rules. Left a message.

~~180~~ - deadline - ~~did not meet~~ did meet deadline

Feb 13, 1989 — Sept 11, 1989 = 210 days

March - 15 - Sept. 11

Could not calculate the 30 day period for obtaining opinions because there was no adoption date.

Feb 13 public

March 15 —

end of

30 day

comment

period

9-21-89 Vicki Reph said she would send an affadavit stating when Speer signed the Findings of Fact, Conclusions, and Order Adopting Rules

Minnesota Department of
Trade and Economic Development

Community Development Division

400 American Center
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

612/296-5005
Fax: 612/296-5287

TELEFAX TRANSMITTAL

DATE: Sept 22, 1989

TO: Patti Nolte
AG. Office

FAX #: 297-2576

SUBJECT OR MESSAGE: Attached is the Affidavit from Commissioner Speer which you requested from Vickie Reph on the SCDP rules. Please confirm receipt of this document by telephone. Thank you.

SENDER: Becky Sabie PHONE # 297-1940

SENDER'S ORIGINALS WILL BE RETURNED THROUGH THE MAIL UNLESS OTHER ARRANGEMENTS ARE MADE.

RECIPIENT: IF YOU DO NOT RECEIVE ALL PAGES OF THIS TELEFAX, OR IF A PAGE IS UNCLEAR, PLEASE CALL (612) 296-5005

THIS FACSIMILE MACHINE IS AVAILABLE FOR TRANSMISSION AND RECEIPT 24 HOURS A DAY.

PAGE 1 OF 4
(Including this page)

Celebrate MINNESOTA 1990

An Equal Opportunity Employer

A F F I D A V I T

David J. Speer, Commissioner, Department of Trade and Economic Development, being duly sworn says:

That on the 24th day of August, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I signed the attached Finding of Fact, Conclusions, and Order Adopting Rules, MN Rules pts. 4300.0100 to 4300.1500.

David Speer
Commissioner

Sept. 22. 1989
Date

Subscribed and sworn to before me on
this 22nd day of September, 1989.

Judith M Charron
NOTARY PUBLIC

JUDITH M. CHARRON
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES SEPTEMBER 29, 1991

II/1.22

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed
Permanent Rules Relating to
Community Block Grants

FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER ADOPTING RULES

After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Department, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Department hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Department of Trade and Economic Development's intent to adopt the above-entitled rules without a public hearing was published in the State Register on February 13, 1989, and was sent by mail to all persons on the list maintained by the Department pursuant to Minn. Stat. section 14.14, subd. 1a and 14.22 (1988) on February 10, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on March 15, 1989.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Department.

6. During the comment period, the Department received no comments.

7. The Department adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Department hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule is needed and reasonable.

CONCLUSION

1. The Minnesota Department of Trade and Economic Development duly acquired and has jurisdiction over this proceeding.

2. The Department published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 4300.0100 to 4300.1500 relating to Community Block Grants are adopted pursuant to the authority vested in the Minnesota Department of Trade and Economic Development by Minn. Stat. section 116J.401(2), section 116J.403, and section 116J.873 (1986).

MINNESOTA DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

David J. Speer

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

CA/22-1

Minnesota Department of
Trade and Economic Development

Community Development Division

900 American Center
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

612/296-5005
Fax: 612/296-1290

August 29, 1989

Ms. Marty Casserly
Special Assistant Attorney General
Office of the Attorney General
515 Transportation Building
John Ireland Boulevard
St. Paul, MN 55155

RE: In the Matter of Proposed Rules Governing the Community Block Grant Program, Minn. Rules, Pt. 4300

Dear Ms. Casserly:

On August 24, 1989, the Minnesota Department of Trade and Economic Development by Commissioner David J. Speer adopted the above-captioned rules governing the Community Block Grant Program. Enclosed for your review are the following:

1. Rules as adopted (original and 3 copies).
2. Findings of Fact, Conclusions and Order Adopting Rules.
3. State Register Notice of Intent to Adopt Rules Without a Public Hearing.
4. Notice of Intent to Adopt Rules Without a Public Hearing as mailed.
5. Rules as proposed.
6. Affidavit of Mailing the Notice of Intent to Adopt the Rule Without a Public Hearing and Certificate of Mailing List.
7. Statement of Need and Reasonableness.
8. Declaration of Counsel.

No comments were received during the comment period and outside opinion was not solicited prior to proposing the Rule. Therefore, other documents addressed in Minn. Rule pt. 2010.0300 are not applicable.

Celebrate MINNESOTA 1990

An Equal Opportunity Employer

If you have any questions related to these documents, please call me at 297-3172.

Thank you.

Sincerely,

Louis F. Jambois, Director
Community Assistance Unit

LFJ:km
SCDP.GEN/I202-(1-2)

Enclosures

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Permanent Rules Relating to Community Block Grants

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Department, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Department hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Department of Trade and Economic Development's intent to adopt the above-entitled rules without a public hearing was published in the State Register on February 13, 1989, and was sent by mail to all persons on the list maintained by the Department pursuant to Minn. Stat. section 14.14, subd. 1a and 14.22 (1988) on February 10, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public. No indication where it was published

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on March 15, 1989.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Department.

6. During the comment period, the Department received no comments.

7. The Department adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Department hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule is needed and reasonable.

CONCLUSION

1. The Minnesota Department of Trade and Economic Development duly acquired and has jurisdiction over this proceeding.

2. The Department published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 4300.0100 to 4300.1500 relating to Community Block Grants are adopted pursuant to the authority vested in the Minnesota Department of Trade and Economic Development by Minn. Stat. section 116J.401(2), section 116J.403, and section 116J.873 (1986).

MINNESOTA DEPARTMENT OF TRADE AND
ECONOMIC DEVELOPMENT

David J. Speer

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

undated

CA/22-1

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155
TELEPHONE: (612) 297-2040

MINNESOTA ATTORNEY GENERAL'S OFFICE
515 Transportation Building
St. Paul, MN 55155

Date 8-28-89

TO: Vicki Reph Time 2:05

Community Development Div. DTED

FAX NUMBER: _____

FROM: Karl W. Sorneman
A & O/C.

Number of Pages: 2 (including this page)

* * * * * * * * * *

Our Fax Number: (612) 297-2576

* * * * * * * * * *

IF THERE ARE PROBLEMS RECEIVING THIS TRANSMISSION,

PLEASE CALL: Barbara

at: (612) 6-9664

✓ Proposed rule + certif of approval by revisor (D)
✓ Notice of intent as mailed (signed by Spear) (E)
✓ Need + Reasonableness (F)
✓ affidavit of mailing (G)
✓ State Register (H)
✓ 4 copies as adopted (I)
✓ Findings of Fact
Declaration of attny

Vicki Reph 60410

61290

- ✓ Proposed rule + certif of approval by revisor (D)
- ✓ Notice of intent as mailed (signed by Spec) (E)
- ✓ Need + Reasonableness (F)
- ✓ affidavit of mailing (G)
- ✓ State Register (H)
- ✓ 4 copies as adopted (I)
- ✓ Findings of Fact
  Declaration of attny

Department of Trade 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 Minnesota Department of Trade and Economic Development intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in Minnesota Statutes, §14.22-14.28.

Changes are proposed to sections concerning definitions and the application process. The rules are authorized by Minnesota Statutes 1988, section 116J.401, section 116J.403, and section 116J.873.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed amended rule or any part or subpart of the amended rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified in final adoption if modifications are supported by the data and views submitted to the Department of Trade and Economic Development and do not result in a substantial change in the proposed language.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. The written request must be specific on which amendment(s) a hearing is desired.

Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. If a public hearing is required, the department will proceed pursuant

to the provisions of Minnesota Statutes, §14.131-14.20.

(5) Persons who wish to submit comments or written requests for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed amendments, should address their correspondence to:

Louis Jambois
Community Assistance Unit
Minnesota Department of Trade and Economic Development
Community Development Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

(11) (12) A free copy of the proposed rule amendments and a statement that describes the need for and reasonableness of each provision on the proposed amendments is available from the Department of Trade and Economic Development upon request.

(9) Upon adoption of the final amendments without a public hearing, the proposed amendments, this notice, the statement of need and reasonableness, all written comments received, and the final amendments as adopted will be delivered to the Attorney General for review as to legality and form, to the extent the form relates to legality. 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 final amendments as proposed for adoption, should submit a written request to the above address.

Please be advised that Minnesota Statutes chapter 10A requires lobbyists to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minnesota Statutes §10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or

authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250 not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone 612/296-5148.

Dated:

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

CA I/8-CP

STATE OF MINNESOTA

In the Matter of the Proposed Adoption of the Amendments to the Permanent Rules of the Commissioner of the Department of Trade and Economic Development Governing:

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

1) The Outdoor Recreation Grant Program and
2) The Small Cities Community Development Block Grant Program and the Economic Recovery Grant Program

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Mary Andersen, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. 14.14, Subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Department of Trade and Economic Development rulemaking mailing list is accurate, complete, and current as of this 9th day of February, 1989.

Mary Andersen
Name

Data Processing Co-ordinator
Title

Subscribed and sworn to before me

this 9th day of February, 1989.

Leona L. Humphrey
Notary Public

LEONA L. HUMPHREY
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires 12-14-93

Terry Kuhlman, being duly sworn says:

That on the 10th day of February, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System of United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Terry Kuhlman
Name

Education Director, PFA
Title

Subscribed and sworn to before me

this 10th day of February, 1989.

Leona L. Humphrey

LEONA L. HUMPHREY
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires 12-14-93

Department of Trade 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 Minnesota Department of Trade and Economic Development intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in *Minnesota Statutes*, § 14.22-14.28.

Changes are proposed to sections concerning definitions and the application process. The rules are authorized by *Minnesota Statutes* 1988, section 116J.401, section 116J.403, and section 116J.873.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed amended rule or any part or subpart of the amended rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified in final adoption if modifications are supported by the data and views submitted to the Department of Trade and Economic Development and do not result in a substantial change in the proposed language.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. The written request must be specific on which amendment(s) a hearing is desired.

Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. If a public hearing is required, the department will proceed pursuant to the provisions of *Minnesota Statutes*, § 14.131-14.20.

Persons who wish to submit comments or written requests for a public hearing, or person who wish to receive a copy of this notice and/or a copy of the proposed amendments, should address their correspondence to:

Louis Jambois
Community Assistance Unit
Minnesota Department of Trade and Economic Development
Community Development Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

A free copy of the proposed rule amendments and a statement that describes the need for and reasonableness of each provision on the proposed amendments is available from the Department of Trade and Economic Development upon request.

Upon adoption of the final amendments without a public hearing, the proposed amendments, this notice, the statement of need and reasonableness, all written comments received, and the final amendments as adopted will be delivered to the Attorney General for review as to legality and form, to the extent the form relates to legality. 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 final amendments as proposed for adoption, should submit a written request to the above address.

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

Rules as Proposed

4300.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them.

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

Subp. 2a. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Trade and Economic Development.

Subp. 2b. **Community development application.** "Community development application" means the official consolidated application form as developed by the Department of Trade and Economic Development to be used to apply for funding assistance from various community assistance programs administered by the community development division.

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Subp. 6. to 9. [Unchanged.]

Subp. 10. **Grant close out.** "Grant close out" means the process by which the ~~office~~ division determines that all applicable administrative actions and all required work have been completed by the grant recipient and the department.

Subp. 11. **Grant year.** "Grant year" means any period of time during which the United States Department of Housing and Urban Development makes funds from any federal fiscal year available to the state for distribution to local governments under *United States Code*, title 42, sections 5301 to 5316 (1981), and includes the period of time during which the ~~office~~ division solicits applications and makes grant awards.

Subp. 11a. **Housing and community development needs assessment.** "Housing and community development needs assessment" means an analysis of priority community needs as required by Section 104 of the Housing and Community Development Act of 1974, *United States Code*, title 42, section 5304(b)(3).

Subp. 12. to 15. [Unchanged.]

Subp. 16. [See Repealer.]

Subp. 17. to 20. [Unchanged.]

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

Subp. 22. and 23. [Unchanged.]

Subp. 24. [See Repealer.]

Subp. 25. [Unchanged.]

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

Subp. 27. [Unchanged.]

4300.0200 PURPOSE.

This Chapter gives procedures for evaluating applications for grants and awarding them to eligible applicants by the Department of Trade and Economic Development under *United States Code*, title 42, sections 5301 to 5316 (1981), and regulations adopted in *Code of Federal Regulations*, title 24, part 570, and under *Minnesota Statutes*, section 116J.873.

4300.1100 TYPES OF COMPETITIVE GRANTS AVAILABLE.

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

A. housing projects which include one or more activities designed to increase the supply or quality of dwellings suited to the occupancy of individuals and families; or

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B. public facilities projects which include one or more activities designed to acquire, construct, reconstruct, or install buildings or infrastructure which serve a neighborhood area or community.

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

4300.1101 ECONOMIC DEVELOPMENT GRANTS; NONCOMPETITIVE.

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

4300.1200 APPLICATION PROCESS AND REQUIREMENTS.

Subpart 1. ~~**Grant**~~ **Community development application manual.** The ~~office~~ division shall ~~prepare a manual for distribution to eligible applicants no later than 120 days before the application closing date for competitive applications~~ make the community development application manual, additional instructional materials, and forms available on a year-round basis. The manual ~~must~~ and additional materials and forms shall instruct applicants in the preparation of applications and describe the method by which the ~~office~~ division will evaluate and rank applications.

Subp. 2. **Eligibility requirements.** Any unit of general purpose local government, including cities, counties, and townships located in a nonentitlement area or electing exclusion from an urban county under *United States Code*, title 42, section 5302 (1981), may apply for a grant. An eligible applicant may apply on behalf of other eligible applicants. Applications submitted on behalf of other applicants must be approved by the governing body of all local governments party to the application. An eligible applicant may ~~apply for~~ receive only one competitive grant per grant year and no eligible applicant shall be included in more than one competitive application. An eligible applicant may ~~apply for~~ receive one economic development grant in addition to a competitive grant each application year.

Subp. 3. **Disqualification of applicants.** Applications from otherwise eligible applicants shall be disqualified where for previously awarded grants under these parts or awarded by the Department of Housing and Urban Development under *United States Code*, title 42, section 5306 (1981), it is determined by the ~~office~~ division that any of the following conditions exist:

A. there are outstanding audit findings on previous community development grants and the grantee has not objected on a reasonable basis to the findings or demonstrated a willingness to resolve the findings;

B. previously approved projects have passed scheduled dates for grant close out and the grantee's ability to complete the project in an expeditious manner is in question; or

C. the applicant has not made scheduled progress on previously approved projects and the grantee's ability to complete the project in an expeditious manner is in question.

Subp. 4. **Contents of community development application.** The contents of ~~the~~ a community development application must be consistent with the informational requirements of this chapter and must be on a form prescribed by the ~~office~~ division. ~~The application must be accompanied by:~~

~~A. an assurance, signed by the chief elected official, that the applicant will comply with all applicable state and federal requirements;~~

~~B. an assurance signed by the chief elected official certifying that at least one public hearing was held at least ten days but not more than 60 days before submitting the application; and~~

~~C. a copy of a resolution passed by the governing body approving the application and authorizing execution of the grant agreement if funds are made available.~~ A complete community development application shall include, but not be limited to:

A. needs narrative, summarizing the needs for the proposed project;

B. project summary, summarizing the activities to be completed and the scope of the project;

C. activities and budget, detailing the estimates associated with each proposed activity;

D. assurances, necessary to comply with the federal or state requirements as a prerequisite to receiving state or federal funding;

E. resolution, from the submission of the local government applicant approving the application and authorizing execution of the grant agreement according to the requirements of the community development division if funds are made available; and

F. supporting materials, attachments that are designed to verify or support information in items A to E.

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

Subp. 5. **Time limit for submitting applications.** ~~Competitive applications must be received in the office or postmarked by the closing date. The office shall give notice of the period during which applications will be accepted.~~ While competitive applications

may be submitted at any time during the year, a formal yearly closing date for receipt of applications shall be established. Complete competitive applications shall be evaluated following the closing date for competitive applications. The notice must be published in the *State Register* at least 120 days before the closing date. Economic development project applications may be submitted at any time during the ~~grant~~ application year.

Subp. 6. **Regional review.** The applicant must submit a complete copy of the application to the Regional Development Commission, where such a commission exists, or the Metropolitan Council, where it has jurisdiction, for review and comment in accordance with *Minnesota Statutes*, section 462.391, subdivision 3, or *Minnesota Statutes*, section 473.171, respectively.

4300.1400 COMPARISON OF ALL COMPETITIVE APPLICATIONS; GENERAL COMPETITION.

Subpart 1. **Points available.** Thirty percent of the total available points shall be awarded by the ~~office~~ division based on a general competition involving a comparison of all applications.

Subp. 2. **Evaluation of community need.** Two-thirds of the points in the general competition shall be awarded based on evaluation of community need, which shall include:

A. the number of poverty persons in the area under the applicant's jurisdiction;

B. the percentage of persons resident in the area under the applicant's jurisdiction who are poverty persons; and

C. the per capita assessed valuation of the area under the jurisdiction of the applicant, such that points are awarded in inverse relationship to applicants' per capita assessed valuation.

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

A. the extent to which the proposed activities are compatible with ~~regional or community development plans~~ the housing and community development needs assessment; and

B. adequacy of the applicant's management and financial plan.

REPEALER. *Minnesota Rules*, part 4300.0100, subparts 16 and 24, are repealed.

Department of Trade and Economic Development

Proposed Permanent Rules Relating to District Heating Loans

Notice of Intent to Amend Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Public Facilities Authority proposes to amend the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, section 446.11, subdivision 2.

All persons have 30 days to submit comments in support of or in opposition to the proposed amendments to the rules. Comment is encouraged. Each comment should identify the portion of the proposed amendments to the rules addressed, the reason for the comment and any change proposed. The proposed amendments to the rules may be modified if the modifications are supported by the data and views submitted to the Authority and do not result in a substantial change.

Any person may make a written request for a public hearing 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 hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments to the rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceeed pursuant to the *Minnesota Statutes*, sections 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

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STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

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

DECLARATION OF COUNSEL

I, KARL W. SONNEMAN, Special Assistant Attorney General, do hereby declare that I 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. For Attorney General billing purposes, the four-digit docket client code is 0415.

KARL W. SONNEMAN
Special Assistant
Attorney General

Dated: September 11, 1989.