

Minnesota Attorney General: Administrative Rules Proceedings

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SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : November 9, 1989

TO : LOUIS F. JAMBOIS, Director
Community Assistance Unit, DTED
900 American Center Bldg. (55101)

FROM : MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 404 (55103)

PHONE : 296-6839

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

The above-referenced rule has been approved as to its legality by the Attorney General on November 7, 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.

MJC:bbl
Enclosures
cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "
Karl W. Sonneman " "

RULE REVIEW CHECKLIST

File No. 1635 Docket No. 05-0009-0415

DATE RECEIVED 10-24-89 ADOPTED W/O HEARING X

REVIEW DATE 11-2-89 EMERGENCY RULE _____

DUE DATE 11-7-89 To Revisor: 10-27-89

REVISOR APPROVED _____

APPROVED 11-7-89 mjc REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

NA Notice to Solicit Outside Information/Opinion (if applicable)
- _____ Date published in State Register
- _____ Comments

NA Petition for Adoption of a Rule (if applicable)

NA Board's Authorizing Resolution
- _____ Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 116J.401 Statutory Authority 116J.403, 116J.873
- NA Small Business Statement
- NA Expenditure of public money statement
- no date Signature

✓ Statement of Need and Reasonableness (if applicable)
- NA Small Business Statement
- NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Aug 21, 1989 Date (30)/25 days before adoption
- no Notice attached
- no Copy of rule or summary attached

✓ Publication in State Register
- Aug 21, 1989 Date (30)/25 days before adoption

_____ 180-day deadline from:
- ✓ Effective date of law requiring rule (14.12) (both rules) not mandatory
- ✓ end of comment period (§ 14.26) (rules without hearing)
- _____ effective date of statutory authority (§ 14.29) (emergency rules)

NA ~~Resolution Adopting~~
- — Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- Sept 27, 1989 Date

_____ ~~Written requests, submissions or comments~~

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

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

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

Department of Trade and Economic Development

Community Development Division

Adopted Permanent Rules Relating to Community Development Block Grants

Rules as Adopted

4300.1300 EVALUATION OF APPLICATIONS.

All applications shall be evaluated by the division. A fixed amount of points shall be established as the maximum score attainable by any application. Points shall be made available within each class of rating criteria according to parts 4300.1400 to 4300.1900. Economic development project applications must meet threshold criteria in order to be evaluated.

4300.1400 COMPARISON OF ALL COMPETITIVE APPLICATIONS; DEMOGRAPHIC POINTS.

Subpart 1. [See Repealer.]

Subp. 2. **Evaluation of community need.** Up to 30 demographic points shall be awarded based on evaluation of community need, which shall include:

A. to C. [Unchanged.]

Subp. 3. [See Repealer.]

4300.1500 COMPARISON OF COMPETITIVE APPLICATIONS WITHIN CATEGORIES.

After completing the general competition described in part 4300.1400, the division shall place each application in the appropriate grant category in accordance with part 4300.1100. The categories are housing projects, public facilities projects, and comprehensive programs. Two hundred and ten of the total 240 points available for each application shall be awarded based on a comparison of the applications within each of the categories as further described in parts 4300.1600 to 4300.1900.

4300.1600 EVALUATION OF HOUSING PROJECTS.

Subpart 1. **Project need.** Up to 90 of the points available in the housing category competition shall be awarded by the division based on evaluation of the need for improvements or additions to the housing stock serving low and moderate income persons as evidenced by:

A. to C. [Unchanged.]

Subp. 2. **Project impact.** Up to 90 of the points available in the housing category competition shall be awarded by the division based on evaluation of the extent to which the proposed activities will eliminate deficiencies in the housing stock serving low and moderate income persons.

Subp. 3. **Project cost effectiveness.** Up to 30 of the points available in the housing category competition shall be awarded by the division based on:

A. evaluation of the extent to which the proposed activities will make cost effective use of grant funds including coordination with, and use of, funds from other public and private sources; and

B. evidence that the cost of the proposed activities per benefiting household is reasonable.

4300.1700 EVALUATION OF PUBLIC FACILITIES PROJECTS.

Subpart 1. **Project need.** Up to 90 of the points available in the public facilities category competition shall be awarded by the division based on evaluation of the extent to which the proposed activities are necessary to improve provision of public services to low and moderate income persons or to eliminate an urgent threat to public health or safety.

Subp. 2. **Project impact.** Up to 90 of the points available in the public facilities category competition shall be awarded by the division based on evaluation of the extent to which the proposed activities will reduce or eliminate the need identified under subpart 1, and, in the case of activities designed to improve the provision of public services to low and moderate income persons, an evaluation of the extent to which the

proposed activities directly benefit low and moderate income persons.

Subp. 3. **Project cost effectiveness.** Up to 30 of the points available in the public facilities category competition shall be awarded by the division based on evaluation of the extent to which the proposed activities will make cost effective use of grant funds, including consideration of:

A. to C. [Unchanged.]

4300.1900 EVALUATION OF COMPREHENSIVE PROGRAM PROJECTS.

Subpart 1. **Program need.** Up to 90 of the points available in the comprehensive program category competition shall be awarded by the division based on evaluation of need for the proposed comprehensive program, including consideration of:

A. to C. [Unchanged.]

Subp. 2. **Program impact.** Up to 90 of the points available in the comprehensive program category competition shall be awarded by the division based on evaluation of the extent to which the proposed comprehensive program will eliminate or reduce the need identified under subpart 1, and the extent to which the proposed program will improve the long term physical or economic condition of the program area and its residents.

Subp. 3. **Program cost effectiveness.** Up to 30 of the points available in the comprehensive program category competition shall be based on evaluation of the extent to which the proposed comprehensive program will make cost effective use of grant funds, including consideration of coordination with, and use of, funds from other public and private sources.

4300.1901 EVALUATION OF ECONOMIC DEVELOPMENT PROJECTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Project review.** Applications that meet eligibility thresholds will be awarded points by the division based on evaluation of the two rating categories: project design and financial feasibility. Applications must attain at least 400 of the 600 available points for economic development to be recommended for funding. Applications must score at least

half of the points available in each of the two rating categories.

Four hundred points will be awarded based on an evaluation of project quality including an assessment of need, impact, and the capacity of the applicant to complete the project in a timely manner. Consideration of need for an economic development project must be based on deficiencies in employment opportunities and circumstances contributing to economic vulnerability and distress. Consideration of impact must be based on the extent to which the project reduces or eliminates the need. Consideration of capacity must be based on demonstration of administrative capability, realistic implementation schedules, and the ability to conform to state and federal requirements.

Two hundred points will be awarded based on an evaluation of the effective use of program funds to induce economic development. Consideration of financial feasibility must include investment analysis, commitment of other funds, and other factors relating to the type of program assistance requested.

Subp. 4. **Funding recommendations.** Applications that attain at least 400 points will be recommended to the commissioner for funding. Applications not recommended for funding may be revised and resubmitted.

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, after subtracting an amount for costs available to the division for administration of the program, as allowed by that law, plus any money made available by the state legislature. The division 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 federal funds

available for grants in each grant year, 30 percent shall be reserved by the division to fund single purpose grants, 15 percent shall be reserved for economic development grants, and 55 percent shall be reserved by the division to fund comprehensive grants. However, the division 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 division 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. **Funding list.** Within each grant category, a list of applications shall be prepared in rank order of the scores received after evaluation pursuant to parts 4300.1300 to 4300.1900. Based on these lists, and subject to the availability of funds within each category, applications with the highest rank shall be recommended to the commissioner for funding. In the case of a tie between any two applications within any category, the application with the higher demographic points shall receive the higher ranking on the list.

Subp. 4. **Approval by commissioner.** The list of applications recommended for funding, including recommended grant awards, shall be submitted by the division to the commissioner for approval. A decision by the commissioner not to approve any application recommended for funding must be made in writing to the applicant, giving reasons for disapproval.

Subp. 5. **Reduction in amount requested.** The division may

recommend an application for funding in an amount less than requested if, in the opinion of the division, 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.

Subp. 6. [Unchanged.]

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 division 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. In accordance with Code of Federal Regulations, title 24, section 570.494(b)(4), interest earned by grant recipients on grant funds before disbursement is not program income, and it must be returned to the United States treasury.

Subp. 4. **Grant account required.** Grant recipients must establish and maintain separate accounts for grant funds.

Subp. 5. **Restrictions on use of funds.** No grant funds shall be used to finance activities not included in the grant agreement. If it is determined that an improper use of funds has occurred, the division will take whatever action is necessary to recover improperly spent funds.

Subp. 6. **Suspension of payments.** The division shall suspend payments of funds to grant recipients that are not in compliance with applicable state and federal laws, rules, and regulations. Grant recipients must return funds that are improperly expended.

Subp. 7. [Unchanged.]

4300.3200 RECORD KEEPING AND MONITORING.

Subpart 1. **Financial records.** Grant recipients shall

maintain financial records that identify the source and application of funds for grant supported activities. These records must contain information about grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and other information required by the division under the responsibilities it assumes under Code of Federal Regulations, title 24, section 570.497(b). Financial records, supporting documents, statistical records, and all other records pertinent to a grant must be retained by the grant recipient for three years from the date of submitting the final financial report. No such records or documents may be disposed of while audits, claims, or litigations involving the records are in progress.

Subp. 2. [Unchanged.]

Subp. 3. **Financial status report.** Grant recipients shall file financial status reports at the close of each reporting period as designated by the division and shall file a final financial report before grant close out. Financial status reports must be on forms prescribed by the division. The division may not require these reports more often than quarterly.

Subp. 4. **Performance report.** Grant recipients shall also file performance reports at the close of each reporting period as designated by the division and shall file a final performance report before grant close out. Performance reports shall be on forms prescribed by the division. The division may not require these reports more often than quarterly.

Subp. 5. **Access to records.** Representatives of the department, either the state auditor or legislative auditor as is appropriate, and federal auditors shall have access to all books, records, accounts, reports, files, and other papers, things, or property belonging to grant recipients which are related to the administration of grants and necessary for audits and monitoring compliance with parts 4300.0100 to 4300.3200.

REPEALER. Minnesota Rules, part 4300.1400, subparts 1 and 3, are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

NOV - 9 1989

10:34 AM

Joan Anderson Growe

Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

NOV - 7 1989

3:05 PM

Joan Anderson Growe

Secretary of State

APPROVED AS TO FORM AND LEGALITY

November 7 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M T Cassedy

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

August 3, 1989

Vickie Reph
Trade and Economic Development
Community Development Division
900 American Center Bldg.
150 East Kellogg Blvd.
St. Paul, MN 55101-1421

RE: File No. 1538

Dear Ms. Reph:

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

Carla M. Riehle

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Community Development 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

Community Development Division

Proposed Permanent Rules Relating to Community Development Block Grants

Rules as Proposed

4300.1300 EVALUATION OF APPLICATIONS.

All applications shall be evaluated by the ~~office~~ division. A fixed amount of points shall be established as the maximum score attainable by any application. Points shall be made available within each class of rating criteria ~~in accordance with the percentages and fractions indicated~~ in according to parts 4300.1400 to 4300.1900. Economic development project applications must meet threshold criteria in order to be evaluated.

4300.1400 COMPARISON OF ALL COMPETITIVE APPLICATIONS; ~~GENERAL COMPETITION~~ DEMOGRAPHIC POINTS.

Subpart 1. [See Repealer.]

Subp. 2. **Evaluation of community need.** ~~Two-thirds of the~~ Up to 30 demographic points ~~in the general competition~~ shall be awarded based on evaluation of community need, which shall include:

A. to C. [Unchanged.]

Subp. 3. [See Repealer.]

4300.1500 COMPARISON OF COMPETITIVE APPLICATIONS WITHIN CATEGORIES.

After completing the general competition described in part 4300.1400, the ~~office~~ division shall place each application in the appropriate grant category in accordance with part 4300.1100. The categories are housing projects, public facilities projects, and comprehensive programs. ~~Seventy percent~~ Two hundred and ten of the total 240 points available for each application shall be

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awarded based on a comparison of the applications within each of the categories as further described in parts 4300.1600 to 4300.1900.

4300.1600 EVALUATION OF HOUSING PROJECTS.

Subpart 1. **Project need.** ~~Three-sevenths~~ Up to 90 of the points available in the housing category competition shall be awarded by the ~~office~~ division based on evaluation of the need for improvements or additions to the housing stock serving low and moderate income persons as evidenced by:

A. to C. [Unchanged.]

Subp. 2. **Project impact.** ~~Three-sevenths~~ Up to 90 of the points available in the housing category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will eliminate ~~or reduce the need for improvements or additions to~~ deficiencies in the housing stock serving low and moderate income persons.

Subp. 3. **Project cost effectiveness.** ~~One-seventh~~ Up to 30 of the points available in the housing category competition shall be awarded by the ~~office~~ division based on:

A. evaluation of the extent to which the proposed activities will make cost effective ~~and efficient~~ use of grant funds including coordination with, and use of, funds from other public and private sources; and

B. evidence that the cost of the proposed activities per benefiting household is reasonable.

4300.1700 EVALUATION OF PUBLIC FACILITIES PROJECTS.

Subpart 1. **Project need.** ~~Three-sevenths~~ Up to 90 of the points available in the public facilities category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities are necessary to improve provision of public services to low and moderate income persons or to eliminate an urgent threat to public health or safety.

Subp. 2. **Project impact.** ~~Three-sevenths~~ Up to 90 of the points available in the public facilities category competition

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shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will reduce or eliminate the need identified under subpart 1, and, in the case of activities designed to improve the provision of public services to low and moderate income persons, an evaluation of the extent to which the proposed activities directly benefit low and moderate income persons.

Subp. 3. **Project cost effectiveness.** ~~One-seventh~~ Up to 30 of the points available in the public facilities category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will make cost effective ~~and efficient~~ use of grant funds, including consideration of:

A. to C. [Unchanged.]

4300.1900 EVALUATION OF COMPREHENSIVE PROGRAM PROJECTS.

Subpart 1. **Program need.** ~~Three-sevenths~~ Up to 90 of the points available in the comprehensive program category competition shall be awarded by the ~~office~~ division based on evaluation of need for the proposed comprehensive program, including consideration of:

A. to C. [Unchanged.]

Subp. 2. **Program impact.** ~~Three-sevenths~~ Up to 90 of the points available in the comprehensive program category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed comprehensive program will eliminate or reduce the need identified under subpart 1, and the extent to which the proposed program will improve the long term physical or economic condition of the program area and its residents.

Subp. 3. **Program cost effectiveness.** ~~One-seventh~~ Up to 30 of the points available in the comprehensive program category competition shall be based on evaluation of the extent to which the proposed comprehensive program will make cost effective ~~and efficient~~ use of grant funds, including consideration of coordination with, and use of, funds from other public and

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private sources.

4300.1901 EVALUATION OF ECONOMIC DEVELOPMENT PROJECTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Project review.** Applications that meet eligibility thresholds will be awarded points by the ~~office~~ division based on evaluation of the two rating categories: project design and financial feasibility. Applications must attain at least ~~two-thirds~~ 400 of the ~~total~~ 600 available points for economic development to be recommended for funding. Applications must score at least half of the points available in each of the two rating categories.

~~Two-thirds-of-the-available~~ Four hundred points will be awarded based on an evaluation of project quality including an assessment of need, impact, and the capacity of the applicant to complete the project in a timely manner. Consideration of need for an economic development project must be based on deficiencies in employment opportunities and circumstances contributing to economic vulnerability and distress. Consideration of impact must be based on the extent to which the project reduces or eliminates the need. Consideration of capacity must be based on demonstration of administrative capability, realistic implementation schedules, and the ability to conform to state and federal requirements.

~~One-third-of-the-available~~ Two hundred points will be awarded based on an evaluation of the effective use of program funds to induce economic development. Consideration of financial feasibility must include investment analysis, commitment of other funds, and other factors relating to the type of program assistance requested.

Subp. 4. **Funding recommendations.** Applications that attain at least ~~two-thirds-of-the-available~~ 400 points will be recommended to the commissioner for funding. Applications not recommended for funding may be revised and resubmitted.

4300.2000 DETERMINATION OF GRANT AWARDS.

Subpart 1. **Funds available for grants.** The amount of

Approved
by Revisor _____

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~~ division for administration of the program, as allowed by that law, plus any money made available by the state legislature. The ~~office~~ division 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 federal funds available for grants in each grant year, 30 percent shall be reserved by the ~~office~~ division to fund single purpose grants, 15 percent shall be reserved for economic development grants, and 55 percent shall be reserved by the ~~office~~ division to fund comprehensive grants. However, the ~~office~~ division 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~~ division 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. **Funding list.** Within each grant category, a list of applications shall be prepared in rank order of the scores received after evaluation pursuant to parts 4300.1300 to 4300.1900. Based on these lists, and subject to the availability of funds within each category, applications with the highest rank shall be recommended to the commissioner for

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funding. In the case of a tie between any two applications within any category, the application with the ~~highest score in the general competition~~ higher demographic points shall receive the higher ranking on the list.

Subp. 4. **Approval by commissioner.** The list of applications recommended for funding, including recommended grant awards, shall be submitted by the ~~office~~ division to the commissioner for approval. A decision by the commissioner not to approve any application recommended for funding must be made in writing to the applicant, giving reasons for disapproval.

Subp. 5. **Reduction in amount requested.** The ~~office~~ division may recommend an application for funding in an amount less than requested if, in the opinion of the ~~office~~ division, 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.

Subp. 6. [Unchanged.]

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~~ division 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. In accordance with Code of Federal Regulations, title 24, section 570.494(b)(4), interest earned by grant recipients on grant funds before disbursement is not program income, and it must be returned to the United States treasury.

Subp. 4. **Grant account required.** Grant recipients must establish and maintain separate accounts for grant funds. ~~In accordance with Code of Federal Regulations, title 24, section 570.494, clause 4, interest earned by grant recipients on grant~~

Approved by Revisor _____

~~funds-before-disbursement-is-not-program-income,-and-it-must-be returned-to-the-United-States-treasury.~~

Subp. 5. **Restrictions on use of funds.** No grant funds shall be used to finance activities not included in the grant agreement. If it is determined that an improper use of funds has occurred, the ~~office~~ division will take whatever action is necessary to recover improperly spent funds.

Subp. 6. **Suspension of payments.** The ~~office~~ division shall suspend payments of funds to grant recipients that are not in compliance with applicable state and federal laws, rules, and regulations. Grant recipients must return funds that are improperly expended.

Subp. 7. [Unchanged.]

4300.3200 RECORD KEEPING AND MONITORING.

Subpart 1. **Financial records.** Grant recipients shall maintain financial records that identify the source and application of funds for grant supported activities. These records must contain information about grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and other information required by the ~~office~~ division under the responsibilities it assumes under Code of Federal Regulations, title 24, section 570.497, ~~clause~~ (b). Financial records, supporting documents, statistical records, and all other records pertinent to a grant must be retained by the grant recipient for three years from the date of submitting the final financial report. No such records or documents may be disposed of while audits, claims, or litigations involving the records are in progress.

Subp. 2. [Unchanged.]

Subp. 3. **Financial status report.** Grant recipients shall file financial status reports at the close of each reporting period as designated by the ~~office~~ division and shall file a final financial report before grant close out. Financial status reports must be on forms prescribed by the ~~office~~ division. The ~~office~~ division may not require these reports more often than

Approved by Revisor _____

quarterly.

Subp. 4. **Performance report.** Grant recipients shall also file performance reports at the close of each reporting period as designated by the ~~office~~ division and shall file a final performance report before grant close out. Performance reports shall be on forms prescribed by the ~~office~~ division. The ~~office~~ division may not require these reports more often than quarterly.

Subp. 5. **Access to records.** Representatives of the ~~office~~ department, either the state auditor or legislative auditor as is appropriate, and federal auditors shall have access to all books, records, accounts, reports, files, and other papers, things, or property belonging to grant recipients which are related to the administration of grants and necessary for audits and monitoring compliance with parts 4300.0100 to 4300.3200.

REPEALER. Minnesota Rules, part 4300.1400, subparts 1 and 3, are repealed.

Approved
by Revisor _____

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

(1) 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 the application evaluation process. The rules are authorized by Minnesota Statutes 1988, section 116J.401, section 116J.403, and section 116J.873.

(2) 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. (2) Comment is encouraged. (3) 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.

(4) Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) 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. (6) The written request must be specific on which amendment(s) a hearing is desired.

(8) 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 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

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.

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

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

CA I/8-CP

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 (1988), 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 REASONABLENESS

A. Reasonableness of Rules as a Whole

It is reasonable to amend the rules to make technical corrections based on the current organizational structure of the Department of Trade and Economic Development (changing "office" to "division"), to provide more clarity regarding the number of points awarded in the application review process, to provide more clarity on how federal and state dollars are allocated, and to reduce redundancy in the evaluation of housing, public facilities, and comprehensive grant applications. The intent of these amendments is to make the rules more understandable to our clients, to eliminate redundant requirements, and to focus on project need, impact, and cost-effectiveness as a means of determining grant awards.

B. Reasonableness of Individual Rules

4300.1300. Evaluation of Applications

All applications shall be evaluated by the ~~office~~ division. A fixed amount of points shall be established as the maximum score attainable by any application. Points shall be made available within each class of rating criteria ~~in accordance with the percentages and fractions indicated in~~ according to parts 4300.1400 to 4300.1900. Economic development project applications must meet threshold criteria in order to be evaluated.

It is necessary to change "office" to "division" because the Small Cities Development Program has been statutorily assigned to the Community Development Division of the Department of Trade and Economic Development. Thus the term "office" is obsolete. It is reasonable to remove obsolete material in the program rules. The change from "office" to "division" will occur in several locations in these rules for the same reason as cited above.

It is necessary to delete the references to percentages and fractions in this section of the rules because in parts 4300.1400 to 4300.1900, percentages and fractions have been replaced by fixed whole numbers. It is reasonable to change percentages and fractions to fixed whole numbers because it will provide more clarity for our applicants. Now, for instance, they will know that "program need" has a maximum value of 90 points rather than three-sevenths of the total points available. It should be noted that changing from percentages and fractions to fixed whole numbers will not result in an actual change in number of available points in the project need, impact, or cost-effectiveness categories. For example, three-sevenths of the total available points ("program need" category) has always equalled 90 points. One-seventh of the total points available ("cost-effectiveness" category) has always equalled 30 points.

4300.1400 Comparison of all Competitive Applications, ~~General Competition~~ Demographic Points

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

[See Repealer.]

Subp. ~~2~~.1. Evaluation of Community Need. ~~Two-thirds of the~~ Up to 30 demographic 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 applicant's 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 housing and community development needs assessment; and~~

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

Amendments to Chapter 4300.1400 subparts 1, 2, and 3 eliminate compatibility with housing and community development needs assessment and adequacy of the applicant's management and financial plan as separate ranking categories. The amendments to this section also delineate a specific number of points to be awarded by the state demographer. The amendments to these subparts are closely related and

will be discussed collectively beginning with the elimination of the housing and community development needs assessment and management/fiscal scores.

It is both necessary and reasonable to repeal subpart 3 because it will eliminate duplication and reduce the amount of paperwork necessary for submission of an application. Subpart 3 is duplicative because housing and community development needs assessment (local planning) and management/fiscal is considered in the documentation required to support "project need," "project impact," and "project cost-effectiveness" (4300.1600 through 4300.1900) arguments. For instance, in order for a public facility project to receive a high "project need" score, the applicant would have to demonstrate that a substantial "need" exists. Applicants are currently demonstrating public facility needs by submitting narrative engineering plans which identify a problem with the applicant's public facilities and recommend solutions to those problems. These engineering plans are substantially more descriptive than general community development plans and provide a significantly stronger basis for state staff to evaluate an application than general plans provide. As with public facilities, housing and comprehensive project need arguments are substantiated by specific data related to the applicant's housing stock and comprehensive target area. With this specific information included in the grant application, the addition of a general community development needs assessment adds very little to the credibility of an application. Thus "planning" is currently addressed in a more useful fashion under "project need." Requiring an applicant to submit a formal housing and community development needs assessment is unnecessarily duplicative.

In addition, applicants rely on information supplied in the Single Community Development Application and a community development survey designed and supplied by DTED staff in order to meet this housing and community development needs assessment requirement. As a result, the scope and quality of the assessments are very similar from one community to the next and provide little concrete basis for DTED staff to differentiate between the needs assessment efforts of applicants. Thus, the submission of housing and community development needs assessments have merely become an exercise for applicants to score points in a category and does not, in any material way, provide useful information on the quality of the proposed projects. It is reasonable to repeal a rule that serves no useful purpose.

An applicant's management and fiscal plan is considered under "project impact" and "project cost-effectiveness" and, as a result, it is unnecessary to provide separate scores for these categories. For housing, public facilities, and comprehensive projects, "project impact" points are awarded based on the extent to which the proposed activities will address the problems identified under "project need." In responding to this challenge, applicants have not only been explaining how the completed project would address the identified problems, but also how the project would be implemented at the local level to assure completion. In other words, how the project implementation will be managed to assure that the project goal is met. Obviously, a proposed solution to a problem has no inherent positive impact on a community. The implementation of the solution, however, does. As a result, applicants currently provide project management

information that receives points in both the "management/fiscal" and "project impact" categories. This is an unnecessary duplication in the state's scoring system. A project management plan should only be scored once and because project management will significantly affect the ultimate success or failure of a project, it should continue to be addressed in the "project impact" category.

For housing, public facility, and comprehensive projects, financial plan points have been awarded based on the extent to which applicants have investigated and secured all appropriate sources of financial assistance for the project. That is also how "project cost-effectiveness" points are assigned. The only difference is that the "project cost-effectiveness" section in the rules more clearly explains how a financial plan will be evaluated and how points will be awarded. Thus, as with the management plan, an applicant's financial plan should only be evaluated and scored once. The most appropriate and descriptive discussion of financial plan analysis is under the "project cost-effectiveness" category.

In conclusion, proper planning, management, and financing are important components of any successful housing, public facility, or comprehensive project. These components, however, should only be evaluated and scored once.

With the elimination of subpart 3. A. and B. and the elimination of percentages and fractions discussed earlier, the only remaining subpart of 4300.1400 is that which describes the award of demographic points. The demographic point section is the only non-duplicative section of

4300.1400 and, as a result, should be retained. The demographic points are assigned by the state demographer and are provided to DTED staff during the review and ranking of applications. The purpose of the demographic points is to provide the poorest communities of the state with an advantage during the ranking process. That is, the poorer the community, the higher the demographic score. In the past, demographic scores have constituted 20% of all points available. Experience has taught us that this percentage has elevated applications that achieved relatively a low project need, project impact, and project cost-effectiveness rating into the funding. An unnecessary project should not be funded merely because it is being proposed by a poor community. As a result, the 30 demographic points identified in these amendments represents 12.5% of the total points available rather than 20%. Moreover, in practice, applicants rarely score the maximum points available for project need, impact, or cost-effectiveness. The poorest applicant competing for funds will score the maximum demographic points. Thus, the <u>effect</u> of the demographic points is normally greater than the 12.5% figure implies. With this amendment, poorer communities will still have a decided advantage over more affluent communities, but applications from poorer communities would still need to demonstrate sound project need, impact, and cost-effectiveness to be funded. It is both necessary and reasonable to provide poor communities an advantage while simultaneously assuring that all funded projects achieve both the applicant's goals and the goals of the SCDP.

4300.1500. <u>Comparison of Competitive Applications Within Categories</u>

After completing the general competition described in 4300.1400, the ~~office~~ division shall place each application in the appropriate grant category in accordance with part 4300.1100. The categories are housing projects, public facilities projects, and comprehensive programs. ~~Seventy percent~~ Two hundred and ten of the total 240 points available for each application shall be awarded based on a comparison of the applications within each of the categories, as further described in parts 4300.1600 to 4300.1900.

The change from "office to division" was precipitated by a 1987 statutory change which assigned the SCDP to the Community Development Division of DTED. It is necessary and reasonable to update the rules to reflect the current organizational structure of the department. Moreover, the change from office to division occurs for the same reason in 4300.1600 subparts 1, 2, and 3; 4300.1700 subparts 1, 2, and 3; 4300.1900 subparts 1 and 2; 4300.2000 subparts 1, 2, 4, and 5; 4300.3100 subparts 3, 5, and 6; and finally 4300.3200 subparts 1, 3, and 4.

With the elimination of the housing and community development needs assessment and management/fiscal categories, the reduction of the demographic points and the change from percentages and fractions to fixed whole numbers there is now a maximum of 240 points available in DTED's scoring system. Of the total available points, 210 are received for project need, impact, and cost-effectiveness. It is necessary and reasonable to change the percentages and portions in 4300.1500 to be consistent with changes identified in 4300.1300.

4300.1600. Evaluation of Housing Projects

Subp. 1. Project Need. ~~Three-sevenths~~ Up to 90 points available in the housing category competition shall be awarded by the ~~office~~ division based on evaluation of the need for improvements or additions to the housing stock serving low-and moderate-income persons as evidenced by:

A. to C. [Unchanged].

It is necessary and reasonable to make the above-cited changes in order to be consistent with changes made and discussed in earlier sections of the rules.

Subp. 2. Project Impact. ~~Three-sevenths~~ Up to 90 of the points available in the housing category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will eliminate ~~or reduce the need for improvements or additions to~~ deficiencies in the housing stock serving low- or moderate-income persons.

It is necessary and reasonable to amend the fraction and organizational title for previously cited reasons. The term "deficiencies" was substituted for "need for improvements or additions" to provide clarity in the rules. "Need for improvements or additions" are "deficiencies." This change is merely a houskeeping measure and is intended for clarification only. As long as more substantive rule changes are being made, it is necessary and reasonable to make minor housekeeping changes as well.

Subp. 3. Project Cost-effectiveness. ~~One seventh~~ Up to 30 of the points available in the housing category competition shall be awarded by the ~~office~~ division based on:

A. evaluation of the extent to which the proposed activities will make cost-effective ~~and efficient~~ use of grant funds including coordination with, and use of, funds from other public and private sources; and

B. evidence that the cost of the proposed activities per benefitting household is reasonable.

It is necessary and reasonable to amend the fraction and organizational title for previously cited reasons. The phrase "and efficient" is being deleted because, in practice, effective and efficient have become the same. The deletion of "and efficient" will have no impact on application review or scoring. This change is also for clarification and is housekeeping in nature. As long as more substantive rule changes are being made, it is necessary and reasonable to make minor housekeeping changes as well.

4300.1700. Evaluation of Public Facilities Projects

Subp. 1. Project Need. ~~Three sevenths~~ Up to 90 of the points available in the public facilities category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities are necessary to improve provision of public services to low- and moderate-income persons or to eliminate an urgent threat to public health or safety.

Subp. 2. Project Impact. ~~Three sevenths~~ Up to 90 of the points available in the public facilities category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will reduce or eliminate the need identified under subp. 1, and, in the case of activities designed to improve the provision of public services to low- and moderate-income persons, an evaluation of the extent to which the proposed activities directly benefit low- and moderate-income persons.

Subp. 3. Project Cost-effectiveness. ~~One seventh~~ Up to 30 of the points available in the public facilities category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will make cost-effective ~~and efficient~~ use of grant funds, including consideration of:

A. to C. [Unchanged].

It is necessary and reasonable to amend the fraction and organizational title and delete the "and efficient" for previously cited reasons.

4300.1900. Evaluation of Comprehensive Program Projects

Subp. 1. Program Need. ~~Three sevenths~~ Up to 90 of the points available in the comprehensive program category competition shall be awarded by the ~~office~~ division based on evaluation of need for the proposed comprehensive program, including consideration of:

A. to C. [Unchanged].

Subp. 2. Program Impact. ~~Three sevenths~~ Up to 90 of the points available in the comprehensive program category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed comprehensive program will eliminate or reduce the need identified under subp. 1, and the extent to which the proposed program will improve the long-term physical or economic condition of the program area and its residents.

Subp. 3. Program Cost-effectiveness. ~~One seventh~~ Up to 30 of the points available in the comprehensive program category competition shall be based on evaluation of the extent to which the proposed comprehensive program will make cost-effective ~~and efficient~~ use of grant funds, including consideration of coordination with, and use of, funds from other public and private sources.

It is necessary and reasonable to amend the fraction and organizational title and delete the "and efficient" for previously cited reasons.

4300.1901. Evaluation of Economic Development Projects

Subpart 1. and 2. [Unchanged].

Subp. 3. Project Review. Applications that meet eligibility thresholds will be awarded points by the ~~office~~ division based on evaluation of the two rating categories: project design and financial feasibility. Applications must attain at least ~~two-thirds~~ 400 of the ~~total~~ 600 available points for economic development to be recommended for funding. Applications must score at least half of the points available in each of the two rating categories.

~~Two thirds~~ ~~of~~ ~~the~~ ~~available~~ Four hundred points will be awarded based on an evaluation of project quality including an assessment of need, impact, and the capacity of the applicant to complete the project in a timely manner. Consideration of need for an economic development project must be based on deficiencies in employment opportunities and circumstances contributing to economic vulnerability and distress. Consideration of impact must be based on the extent to which the project reduces or eliminates the need. Consideration of capacity must be based on demonstration of administrative capability, realistic implementation schedules, and the ability to conform to state and federal requirements.

~~One third~~ ~~of~~ ~~the~~ ~~available~~ Two hundred points will be awarded based on an evaluation of the effective use of program funds to induce economic development. Consideration of financial feasibility must include investment analysis, commitment of other funds, and other factors relating to the type of program assistance requested.

Subp. 4. Funding Recommendations. Applications that attain at least ~~two thirds~~ ~~of~~ ~~the~~ ~~available~~ 400 points will be recommended to the commissioner for funding. Applications not recommended for funding may be revised and resubmitted.

It is necessary and reasonable to amend the fractions and organizational title for previously cited reasons.

4300.2000. Determination of Grant Awards

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 available to the ~~office~~ division for administration of the program, as allowed by that law, plus any money made available by the state legislature. The ~~office~~ division is not liable for any grants under this chapter until funds are received from the United States Department of Housing and Urban Development.

It is necessary and reasonable to amend the organizational title for previously cited reasons.

It is necessary and reasonable to cite United States Code, title 42, section 5306 without a reference to a specific year because any future changes to the USC will now automatically be incorporated in the rules without the necessity of a rule change. This is a minor housekeeping measure designed to keep the rules current.

The addition of "plus any money made available by the state legislature" is a reference to the Economic Recovery Fund (ERF) (Minn. Stat. section 116J.873 [1988]).

This statute specifically states that the rules used to govern the economic development grants in the SCDP must also be used to govern the ERF. Thus, any discussion of funds available for grants should have also referenced state funds. This is also a housekeeping amendment designed to add clarity to the rules. This addition will not alter the way funds are distributed. It is necessary and reasonable to include references that should have appeared in the rules since 1986.

Subp. 2. Division of Funds. Of the federal funds available for grants in each grant year, 30 percent shall be reserved by the ~~office~~ division to fund single purpose grants, 15 percent shall be reserved for economic development grants, and 55 percent shall be reserved by the ~~office~~ division to fund comprehensive grants. However, the ~~office~~ division 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~~ division 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.

It is necessary and reasonable to amend the organizational title for previously cited reasons.

The addition of the term "federal" is designed to clarify how the funds are actually divided. It has never been the intent of either these rules or the Minnesota legislature to divide the Economic Recovery Fund

according to the provisions of subpart 2, above. In practice, the division has never divided the ERF in the manner previously described by subpart 2. As a result, this amendment provides a clarification which more accurately describes legislature intent and past practice. It is necessary and reasonable to provide clarity in program rules.

Subp. 3. Funding List. Within each grant category, a list of applications shall be prepared in rank order of the scores received after evaluation pursuant to Parts 4300.1300 to 4300.1900. Based on these lists, and subject to the availability of funds within each category, applications with the highest rank shall be recommended to the commissioner for funding. In the case of a tie between any two applications within any category, the application with the ~~highest score in the general competition~~ higher demographic points shall receive the higher ranking on the list.

This amendment is the result of an amendment to 4300.1400. "General competition" has been amended to "demographic points", and it is necessary and reasonable to keep all program rules consistent. However, this rule change does not amend the previous intent of subpart 3 which is to provide an advantage in the ranking system to poorer applicants.

Subp. 4. Approval by Commissioner. The list of applications recommended for funding, including recommended grant awards, shall be submitted by the ~~office~~ division to the commissioner for approval. A decision by the commissioner not to approve any application recommended for funding must be made in writing to the applicant, giving reasons for disapproval.

Subp. 5. Reduction in Amount Requested. The ~~office~~ division may recommend an application for funding in an amount less than requested if, in the opinion of the ~~office~~ division, 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.

Subp. 6. [Unchanged].

It is necessary and reasonable to amend the organizational title for previously cited reasons.

4300.3100 Grant Agreements

Subp. 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~~ division 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. In accordance with Code of Federal Regulations, title 24, section 570.494(b)(4), interest earned by grant recipients on grant funds before disbursement is not program income, and it must be returned to the United States treasury.

Subp. 4. Grant account required. Grant recipients must establish and maintain separate accounts for grant funds. ~~In accordance with Code of~~

~~Federal Regulations, title 24, section 570.494, clause 4, interest earned by grant recipients on grant funds before disbursement is not program income, and it must be returned to the United States treasury.~~

Subp. 5. Restrictions on use of funds. No grant funds shall be used to finance activities not included in the grant agreement. If it is determined that an improper use of funds has occurred, the ~~office~~ division will take whatever action is necessary to recover improperly spent funds.

Subp. 6. Suspension of payments. The ~~office~~ division shall suspend payments of funds to grant recipients that are not in compliance with applicable state and federal laws, rules, and regulations. Grant recipients must return funds that are improperly expended.

Subp. 7. [Unchanged].

It is necessary and reasonable to amend the organizational title for previously cited reasons.

The reference to CFR, 24, 570.494(b)(4) relates to earned interest and its relationship to program income. Because 4300.3100, subpart 3, is specific to program income, it is necessary and reasonable to place the reference in subpart 3. This amendment has no material impact on the administration of the SCDP and is merely for clarification and housekeeping.

4300.3200. Recordkeeping and Monitoring

Subp. 1. Financial Records. Grant recipients shall maintain financial records that identify the source and application of funds for

grant-supported activities. These records must contain information about grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and other information required by the ~~office~~ division under the responsibilities it assumes under Code of Federal Regulations, title 24, section 570.497~~, clause~~ (b). Financial records, supporting documents, statistical records, and all other reports pertinent to a grant must be retained by the grant recipient for three years from the date of submitting the final financial report. No such records or documents may be disposed of while audits, claims, or litigations involving the records are in progress.

Subp. 2. [Unchanged].

Subp. 3. Financial Status Reports. Grant recipients shall file financial status reports at the close of each reporting period as designated by the ~~office~~ division and shall file a final financial report before grant closeout. Financial status reports must be on forms prescribed by the ~~office~~ division. The ~~office~~ division may not require these reports more often than quarterly.

Subp. 4. Performance Report. Grant recipients shall also file performance reports at the close of each reporting period as designated by the ~~office~~ division and shall file a final performance report before grant closeout. Performance reports shall be on forms prescribed by the ~~office~~ division. The ~~office~~ division may not require these reports more often than quarterly.

It is necessary and reasonable to amend the organizational title for previously cited reasons.

Subp. 5. Access to Records. Representatives of the ~~office~~ department, either the state auditor or legislative auditor as is appropriate, and federal auditors shall have access to all books, records, accounts, reports, files, and other papers, things, or property belonging to grant recipients which are related to the administration of grants and necessary for audits and monitoring compliance with parts 4300.0100 to 4300.3200.

This amendment provides representatives of DTED with access to grantee records. The amendment is consistent with DTED's current grant agreements and state administrative practices. The amendment would allow the fiscal services unit within the DTED to review grantee records - in the event division staff needed assistance in reviewing grantee financial management systems or audits. This amendment will not alter the current monitoring relationship between the department and its grantees. It is necessary and reasonable to make this housekeeping amendment as long as more substantive changes are being made.

REPEALER. Minnesota Rules, part 4300.1400, subparts 1 and 3, are repealed.

SAM II/2-CP (1-7)

STATE OF MINNESOTA

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

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

Small Cities Development 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 17st day of August, 1989.

Mary Andersen
Name
DP Coordinator
Title

Subscribed and sworn to before me

this 17 day of August, 1989.

Richard B. Nadeau
Notary Public

RICHARD B. NADEAU
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm Expires Apr. 12, 1993

Vickie Reph, being duly sworn says:

That on the 21 day of August, 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.

Vickie J. Reph
Name
Community Development Representative
Title

Subscribed and sworn to before me

this 24th day of August, 1989.

Richard B. Nadeau
Notary Public

RICHARD B. NADEAU
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm Expires Apr. 12, 1993

All persons learning the trade of pipefitting shall register with the department on an annual basis until the four years of training are documented. The registration shall be made at the time of initial registration with the department and annually after that on the anniversary of the initial registration.

All persons learning the trade of pipefitting shall be under the direct supervision of a contracting or journeyman pipefitter, and when working on high pressure piping projects, shall be limited to working on permitted projects under the provisions of *Minnesota Statutes*, section 326.47, subdivision 1. The ratio of pipefitter trainees to licensed pipefitters on the jobsite shall be:

A. one pipefitter trainee for the first licensed pipefitter; and

B. one pipefitter trainee for every three licensed pipefitters after that; provided, that at least one journeyman or contracting pipefitter must be on the jobsite at all times when work is in progress.

Upon completion and verification of four years of employment and training by a licensed contracting pipefitter, the pipefitter trainee may make application for examination and license as a journeyman.

Subp. 3. **Changes in employment or address.** All registered ~~apprentices~~ pipefitter trainees shall inform the ~~Division of Steamfitting Standards~~ department of changes of employment and their address.

5230.0130 DUTIES OF LICENSED CONTRACTING STEAMFITTERS.

A contracting steamfitter employing a journeyman steamfitter or ~~an apprentice steamfitter~~ a pipefitter trainee shall comply with all the laws, rules, and minimum standards of the state of Minnesota, paying promptly for labor and material furnished an owner, and reporting income tax and conforming to the laws governing the relationship of master and servant, including the carrying or workmen's compensation insurance, paying the Social Security tax, paying wages when due, furnishing written contracts of employment, and employing licensed steamfitters on high pressure pipe work.

REVISOR'S INSTRUCTION. In the next edition of *Minnesota Rules*, the Revisor of Statutes shall substitute the term "pipefitter" wherever the term "steamfitter" appears in chapter 5230, including headnotes.

REPEALER. *Minnesota Rules*, part 5230.0110, subparts 1 and 2, are repealed.

APPLICATION. Part 5230.0110 applies to all high pressure piping projects after December 31, 1989, to high pressure piping trainees registered after December 31, 1989, and to all high pressure piping apprentices registered with the department before January 1, 1990.

Department of Trade and Economic Development

Community Development Division

Proposed Permanent Rules Relating to Community Development 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 the application evaluation 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 amendment 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 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

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.

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 traveling 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. 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.

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

Rules as Proposed

4300.1300 EVALUATION OF APPLICATIONS.

All applications shall be evaluated by the ~~office~~ division. A fixed amount of points shall be established as the maximum score attainable by any application. Points shall be made available within each class of rating criteria ~~in accordance with the percentages and fractions indicated in~~ according to parts 4300.1400 to 4300.1900. Economic development project applications must meet threshold criteria in order to be evaluated.

4300.1400 COMPARISON OF ALL COMPETITIVE APPLICATIONS; ~~GENERAL COMPETITION~~ DEMOGRAPHIC POINTS.

Subpart 1. [See Repealer.]

Subp. 2. **Evaluation of community need.** ~~Two-thirds of the~~ Up to 30 demographic points ~~in the general competition~~ shall be awarded based on evaluation of community need, which shall include:

A. to C. [Unchanged.]

Subp. 3. [See Repealer.]

4300.1500 COMPARISON OF COMPETITIVE APPLICATIONS WITHIN CATEGORIES.

After completing the general competition described in part 4300.1400, the ~~office~~ division shall place each application in the appropriate grant category in accordance with part 4300.1100. The categories are housing projects, public facilities projects, and comprehensive programs. ~~Seventy percent~~ Two hundred and ten of the total 240 points available for each application shall be awarded based on a comparison of the applications within each of the categories as further described in parts 4300.1600 to 4300.1900.

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.

~~4300.1600~~ EVALUATION OF HOUSING PROJECTS.

Subpart 1. **Project need.** ~~Three-sevenths~~ Up to 90 of the points available in the housing category competition shall be awarded by the ~~office~~ division based on evaluation of the need for improvements or additions to the housing stock serving low and moderate income persons as evidenced by:

A. to C. [Unchanged.]

Subp. 2. **Project impact.** ~~Three-sevenths~~ Up to 90 of the points available in the housing category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will eliminate ~~or reduce the need for improvements or additions to~~ deficiencies in the housing stock serving low and moderate income persons.

Subp. 3. **Project cost effectiveness.** ~~One-seventh~~ Up to 30 of the points available in the housing category competition shall be awarded by the ~~office~~ division based on:

A. evaluation of the extent to which the proposed activities will make cost effective ~~and efficient~~ use of grant funds including coordination with, and use of, funds from other public and private sources; and

B. evidence that the cost of the proposed activities per benefiting household is reasonable.

4300.1700 EVALUATION OF PUBLIC FACILITIES PROJECTS.

Subpart 1. **Project need.** ~~Three-sevenths~~ Up to 90 of the points available in the public facilities category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities are necessary to improve provision of public services to low and moderate income persons or to eliminate an urgent threat to public health or safety.

Subp. 2. **Project impact.** ~~Three-sevenths~~ Up to 90 of the points available in the public facilities category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will reduce or eliminate the need identified under subpart 1, and, in the case of activities designed to improve the provision of public services to low and moderate income persons, an evaluation of the extent to which the proposed activities directly benefit low and moderate income persons.

Subp. 3. **Project cost effectiveness.** ~~One-seventh~~ Up to 30 of the points available in the public facilities category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed activities will make cost effective ~~and efficient~~ use of grant funds, including consideration of:

A. to C. [Unchanged.]

4300.1900 EVALUATION OF COMPREHENSIVE PROGRAM PROJECTS.

Subpart 1. **Program need.** ~~Three-sevenths~~ Up to 90 of the points available in the comprehensive program category competition shall be awarded by the ~~office~~ division based on evaluation of need for the proposed comprehensive program, including consideration of:

A. to C. [Unchanged.]

Subp. 2. **Program impact.** ~~Three-sevenths~~ Up to 90 of the points available in the comprehensive program category competition shall be awarded by the ~~office~~ division based on evaluation of the extent to which the proposed comprehensive program will eliminate or reduce the need identified under subpart 1, and the extent to which the proposed program will improve the long term physical or economic condition of the program area and its residents.

Subp. 3. **Program cost effectiveness.** ~~One-seventh~~ Up to 30 of the points available in the comprehensive program category competition shall be based on evaluation of the extent to which the proposed comprehensive program will make cost effective ~~and efficient~~ use of grant funds, including consideration of coordination with, and use of, funds from other public and private sources.

4300.1901 EVALUATION OF ECONOMIC DEVELOPMENT PROJECTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Project review.** Applications that meet eligibility thresholds will be awarded points by the ~~office~~ division based on evaluation of the two rating categories: project design and financial feasibility. Applications must attain at least ~~two-thirds~~ 400 of the ~~total~~ 600 available points for economic development to be recommended for funding. Applications must score at least half of the points available in each of the two rating categories.

~~Two-thirds of the available~~ Four hundred points will be awarded based on an evaluation of project quality including an assessment of need, impact, and the capacity of the applicant to complete the project in a timely manner. Consideration of need for an economic development project must be based on deficiencies in employment opportunities and circumstances contributing to economic vulnerability and distress. Consideration of impact must be based on the extent to which the project reduces or eliminates the need. Consideration of capacity must be based on demonstration of administrative capability, realistic implementation schedules, and the ability to conform to state and federal requirements.

~~One-third of the available~~ Two hundred points will be awarded based on an evaluation of the effective use of program funds to induce economic development. Consideration of financial feasibility must include investment analysis, commitment of other funds, and other factors relating to the type of program assistance requested.

Subp. 4. **Funding recommendations.** Applications that attain at least ~~two-thirds of the available~~ 400 points will be recommended to the commissioner for funding. Applications not recommended for funding may be revised and resubmitted.

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~~ division for administration of the program, as allowed by that law, plus any money made available by the state legislature. The ~~office~~ division 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 federal funds available for grants in each grant year, 30 percent shall be reserved by the ~~office~~ division to fund single purpose grants, 15 percent shall be reserved for economic development grants, and 55 percent shall be reserved by the ~~office~~ division to fund comprehensive grants. However, the ~~office~~ division 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~~ division 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. **Funding list.** Within each grant category, a list of applications shall be prepared in rank order of the scores received after evaluation pursuant to parts 4300.1300 to 4300.1900. Based on these lists, and subject to the availability of funds within each category, applications with the highest rank shall be recommended to the commissioner for funding. In the case of a tie between any two applications within any category, the application with the ~~highest score in the general competition~~ higher demographic points shall receive the higher ranking on the list.

Subp. 4. **Approval by commissioner.** The list of applications recommended for funding, including recommended grant awards, shall be submitted by the ~~office~~ division to the commissioner for approval. A decision by the commissioner not to approve any application recommended for funding must be made in writing to the applicant, giving reasons for disapproval.

Subp. 5. **Reduction in amount requested.** The ~~office~~ division may recommend an application for funding in an amount less than requested if, in the opinion of the ~~office~~ division, 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.

Subp. 6. [Unchanged.]

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~~ division 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. In accordance with Code of Federal Regulations, title 24, section 570.494(b)(4), interest earned by grant recipients on grant funds before disbursement is not program income, and it must be returned to the United States treasury.

Subp. 4. **Grant account required.** Grant recipients must establish and maintain separate accounts for grant funds. ~~In accordance with Code of Federal Regulations, title 24, section 570.494, clause 4, interest earned by grant recipients on grant funds before disbursement is not program income, and it must be returned to the United States treasury.~~

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.

Subp. 5. **Restrictions on use of funds.** No grant funds shall be used to finance activities not included in the grant agreement. If it is determined that an improper use of funds has occurred, the ~~office~~ division will take whatever action is necessary to recover improperly spent funds.

Subp. 6. **Suspension of payments.** The ~~office~~ division shall suspend payments of funds to grant recipients that are not in compliance with applicable state and federal laws, rules, and regulations. Grant recipients must return funds that are improperly expended.

Subp. 7. [Unchanged.]

4300.3200 RECORD KEEPING AND MONITORING.

Subpart 1. **Financial records.** Grant recipients shall maintain financial records that identify the source and application of funds for grant supported activities. These records must contain information about grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and other information required by the ~~office~~ division under the responsibilities it assumes under Code of Federal Regulations, title 24, section 570.497~~, clause~~ (b). Financial records, supporting documents, statistical records, and all other records pertinent to a grant must be retained by the grant recipient for three years from the date of submitting the final financial report. No such records or documents may be disposed of while audits, claims, or litigations involving the records are in progress.

Subp. 2. [Unchanged.]

Subp. 3. **Financial status report.** Grant recipients shall file financial status reports at the close of each reporting period as designated by the ~~office~~ division and shall file a final financial report before grant close out. Financial status reports must be on forms prescribed by the ~~office~~ division. The ~~office~~ division may not require these reports more often than quarterly.

Subp. 4. **Performance report.** Grant recipients shall also file performance reports at the close of each reporting period as designated by the ~~office~~ division and shall file a final performance report before grant close out. Performance reports shall be on forms prescribed by the ~~office~~ division. The ~~office~~ division may not require these reports more often than quarterly.

Subp. 5. **Access to records.** Representatives of the ~~office~~ department, either the state auditor or legislative auditor as is appropriate, and federal auditors shall have access to all books, records, accounts, reports, files, and other papers, things, or property belonging to grant recipients which are related to the administration of grants and necessary for audits and monitoring compliance with parts 4300.0100 to 4300.3200.

REPEALER. *Minnesota Rules*, part 4300.1400, subparts 1 and 3, are repealed.

State Board of Vocational Technical Education

Proposed Permanent Rules Relating to Business and Office Occupations

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Vocational Technical Education 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*, Section 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 136C.04, Subdivision 9.

All persons have 30 days until 4:30 p.m., Tuesday, September 19, 1989, 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 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 to *Minnesota Statutes*, Sections 14.131 to 14.20.

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

Glenda Moyers, Supervisor
Minnesota Technical College System
100 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: (612) 296-5705

Georgia Pomroy, License Revision Specialist
Minnesota Technical College System
100 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: (612) 296-0680

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 August 21, 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 August 21, 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 September 20, 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. 4300.1300 to 4300.3200 relating to Community Block Grants are adopted this 27 day of September, 1989, 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-(1-2)

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of Proposed
Permanent Rules Relating to
Community Block Grants,
Minn. Rules Pt. 4300.1300
through 4300.3200

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. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0415.

KARL W. SONNEMAN
Special Assistant
Attorney General

Dated: 10/24/89

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

September 27, 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 September 27, 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.

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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

4300.1300 Community Development Blocks

Notice of Intent

Rule E (8) in the Notice of Intent it states "the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired?" desired? no statement that the modified rules do not result in substantial change from the proposed rules.

Rule E (6) no statement that the person requesting a public hearing should state his or her name and address

Rule E (11) Intent states there is a free copy of the proposed rule but does not say that the rule is attached or a statement summarizing the rule

Stat. Authority

116J.401 Commissioner of Trade and Economic Dev. shall provide regional commissions, grants . . .

116J.403

No money should be spend for community development and related programs until the commissioner adopts rules prescribing standards.. Rules must be adopted under the administrative procedure act in Chapter 14

116J. 873 Economic Recovery Grants
- Admenstration, Economic recovey grant defined, Grant evaluation, and Grant limits.

Is there authouty for Commissioner to promogate rules?

30 day notici when it says it expires on Sept 20 does that exclude the 20?

180 day deadline

14.12 not mandatory but not val save

MN Rules 4300.1400 subparts 1 and 3 are repealed.