

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

In the Matter of Proposed Rules Amendment  
Relating to Community Block Grants.  
Minnesota Rule Chapter 4300.

Statement of Need and  
Reasonableness

General Statement - Statutory Authority

The Department is proposing to adopt the above-referenced rule amendment as a permanent rule, as authorized in Minnesota Statutes 116J.401(2) and 116J.403.

Background

This proposed rule amendment will modify a portion of existing rules codified in Chapter 4300 of Minnesota Rules. Those rules establish standards and procedures to govern the administration of the federal Small Cities Community Development Block Grant program. These rules were initially adopted when the State assumed the responsibility for awarding and administering these grants to local units of government throughout Minnesota. Two years later, these same rules were applied to the administration of the state-funded Economic Recovery Grant program. The authorizing legislation for this program [MS (1984), Section 116J.873] 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.

The portion of the rule which the proposed amendment would modify (MCAR 4300.3100) requires grant contracts for grants awarded through the Small Cities Community Development Block Grant program and, by statutory reference, the State Economic Recovery Grants program. MCAR 4300.3100 also specifies several terms and conditions, which must be incorporated into the grant contracts.

If adopted, the proposed amendment would delete that portion of the rules which requires the grant contract include language specifying that five percent of the grant award will not be paid until all activities in the workplan have been successfully completed.

Small Business/Commissioner of Finance Considerations

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

Need and Reasonableness

The portion of the agency's rules proposed for amendment is printed below. The language being deleted will be included within brackets [ ]. Following the

citation, the Department will explain the need for and reasonableness of the amendment.

MCAR 4300.3100

## Subpart 2. Contents of Grant Contract

The grant contract must include:

- A. A work program that indicates completion dates for major parts of the project and a projected budget supporting the work program;
- B. A description of the manner in which payments will be made to grant recipients [with the condition that five percent of the grant award will not be paid until successful completion of all activities in the work program]; and
- C. Assurances that the grant recipient will comply with all applicable state and federal laws, including at least the federal laws or regulations which the State is made responsible for enforcement in Code of Federal Regulations, Title 24, Sections 570.495 and 570.496.

The Department proposes to delete the language requiring that grant contracts specify the State will withhold five percent of a grant award until all activities in the workplan are completed. The Department's experience in administering these grant programs have proven this requirement to be both unworkable and unnecessary.

The proposed amendment is necessary for several reasons:

1. Nearly all of the grants made to local units of government for economic development projects under the Small Cities Community Development Block Grant Program and the State Economic Recovery Grant Program are used for direct loans by the City to a business for the business's expansion project. The majority of these loans are for capital purchases by the business. Withholding five percent of such a grant creates two major complications:
  - a) The City is unable to make the entire loan amount available to the business upon closing of the loan agreement. This situation complicates the terms of the loan, specifically regarding the amount of principal to which the interest rate is to be applied.
  - b) The business receiving the loan must negotiate with the vendor of the capital asset for delaying five percent of the amount owed on the capital asset until it is able to secure that portion of the loan from the City.

2. Many local units of government receiving public facility, housing, or comprehensive grants through the Small Cities Community Development Block Grant program are unable to cash flow any payments to contractors and/or vendors for work completed on a funded project. In many cases, the recipients of these grants are cities which administer total annual budgets that are but a fraction of the amount of the grant award. In these cases, it is impossible for the City to pay contractors/vendors for activities using the final five percent of the grant proceeds. Even though they would eventually recover these costs, many cities simply would not have the wherewithall to absorb them for even a short period of time.

The proposed amendment is reasonable because any useful purpose which may be served by withholding five percent of grant funds until a project is complete may also be served by other conditions incorporated in the rules governing the programs. Specifically, MCAR 4300.3100, Subpart 6 requires that the Department "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. DEED has successfully used this provision on numerous occasions to compel grantees to fully comply with all conditions of the grant agreement.

Amendment Discussed with Advisory Board

On May 28, 1986, the proposed amendment was discussed with the Small Cities Development Program Advisory Committee. No member present voiced any opposition or reservation to the proposed change.

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