

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Rules
of the Department of Human Services
Governing Child Care Resource and
Referral and Child Care Services
Grants, Parts 9565.5500 to 9565.5520

STATEMENT OF NEED
AND REASONABLENESS

Introduction

The proposed rule parts 9565.5500 to 9565.5520 establish requirements governing grants for child care resource and referral programs and grants for child care services. The rule describes information that grant applicants must submit as part of their grant proposal; describes eligibility requirements and categories of grants; establishes funding priorities; provides criteria advisory task force members must consider in ranking grant proposals; requires recordkeeping; and provides audit authority to review grant expenditures. The statutory authority for the establishment of this rule is Minnesota Statutes, sections 245.872 and 256H.20 and Laws of Minnesota 1988, chapter 689, article 2, section 266.

BACKGROUND

The authority to award child care resource and referral program grants is provided in Minnesota Statutes, sections 245.872 and 256H.20. Authority to adopt rules for child care resource and referral program grants is provided in Minnesota Statutes, section 256H.20, subdivision 4.

The authority to award child care services grants is provided in Minnesota Statutes, sections 245.872. Authority to adopt rules for child care services grants is provided in Laws of Minnesota 1988, chapter 689, article 2, section 266.

These two grant programs are related in that both grants may be used to fund child care resource and referral programs. Therefore, the grant programs are encompassed within a single rule but in separate rule parts.

During the period from 1979 through 1986 no appropriations were made for child care service development. In 1987 the Legislature appropriated \$250,000 for child care resource and referral grants and \$250,000 for child care services grants for the 1988-1989 biennium (1987 Health, Human Services and Corrections Omnibus Appropriations bill). In 1988 the Legislature appropriated an additional \$150,000 for child care resource and referral programs and child care services for state fiscal year 1989 (1988 Health and Human Services Omnibus Appropriation bill).

Requests for proposals for child care resource and referral and service development grants were handled by Informational Bulletins issued by the Department of Human Services. The information bulletins were Informational Bulletin #87-68R dated October 4, 1987, and Informational Bulletin #88-68C dated May 27, 1988.

The informational bulletins provided potential grant applicants information on grant requirements and the procedure for submitting grant proposals for child care resource and referral and child care services grants which included grants for facility improvement expenses, interim financing, and staff training expenses. A funding subgroup of the child care services grants was the child care mini-grant that provided funds for physical plant improvements or equipment needed to meet licensing requirements.

For the 1988-1989 biennium, the Department of Human Services received a total appropriation of \$650,000 for child care grants. The program grant allocations were as follows.

1. Resource and Referral Grants -- \$287,500
2. Child Care Services Grants -- \$310,942
3. Mini-Grants -- \$ 51,558

In response to the request for proposals, the Department of Human Services received 27 child care resource and referral grant proposals requesting \$513,025. Eighteen of the proposals received funding. The Department received 243 child care services grant proposals requesting \$3,005,595. Fifty-six of the proposals received funding. The Department received 1,577 mini-grant proposals requesting \$816,836. Three hundred and nine of the proposals received funding. The total funding request from grant applicants for the three grants was \$4,335,456. For every dollar appropriated, \$6.67 was requested. Since the demand for assistance exceeds available resources, it is necessary that the grant programs clearly identify grant proposal requirements so all grant applicants are given an equal opportunity to compete for grant monies and all grant applications are considered and ranked based on uniform criteria.

Rule Development Procedure

In the development of the proposed rule, the Department used the procedures mandated by the APA and internal department policies that ensure maximum public input. Public input was sought through a Notice to Solicit Outside Opinion published May 9, 1988 in the State Register (12 S.R. 2428) and establishment of a child care fund advisory committee. The child care fund advisory committee consisted of 23 persons representing county agencies; post-secondary educational institutions; child care advocacy groups that included Child Care Works, Children's Defense Fund, Greater Minneapolis Day Care Association, Child Care Works Alliance, Resources for Child Care; Legal Services Advocates; and the Minnesota Indian Women's Resource Center. The advisory committee provided input into the development of two child care related rules, Rules 72 and 76. Rule 76 is the present rule which governs grants for Child Care Resource and Referral Programs and Child Care Services. The Advisory Committee met on July 13, 1988; August 10, 1988; September 14, 1988; October 4, 1988; and on October 25, 1988. The October 4, 1988 meeting of the advisory committee was scheduled exclusively for the purpose of discussing Rule 76. Subsequent to the advisory committee meeting, the rule draft was sent to the Advisory Committee for further comments.

Although the Department did not view the proposed rule as controversial, it requested comments from the advisory committee regarding any controversial issues related to the rule. Recognizing the diversity of the advisory committee composition, the Department believed the advisory committee would be extremely helpful in identifying any area of possible controversy. The advisory committee did not identify any parts of the rule as controversial. Due to the noncontroversial nature of this rule, the Department intends to publish a Notice of Intent to Adopt a Rule without a Public Hearing.

In preparing these rules, the Department considered the requirements of Minnesota Statutes, section 14.115. Minnesota Statutes, section 14.115 directs the Department to consider methods for reducing the impact of the rule on small businesses. The child care resource and referral grants do not impact small businesses since by statute these grants may only be awarded to public and private nonprofit agencies. The child care service development grants will not have a negative impact on small businesses since submission of a grant proposal is voluntary. If a grant is awarded, it would have a positive financial impact on the small business. Since small businesses are not mandated to do anything under this rule, there is no direct impact on small businesses. Adoption of this rule will not effect the ongoing operation of any business. Therefore, there are not alternative measures for reducing the rule impact.

However, in order to encourage submission of grant proposals, the grant proposal information required in these rules is the minimum information necessary to evaluate and rank different grant proposals. In addition, a special category of child care service development grant funds called the "mini-grant" has been established to enable the smallest of the small businesses with relatively low cost facility or training needs to compete for available grant funds. Mini-grant proposal involve funding requests of \$1,000 or less. Priority for mini-grants is given to family day care providers who generally have limited fiscal resources available to them to meet or exceed family day care licensing standards.

9565.5500 DEFINITIONS.

This part defines words and phrases that have meaning specific to parts 9565.5500 to 9565.5520, that may have several possible interpretations or that need exact definition to be consistent with statute or other department rules.

Subpart 1. Scope. This provision is necessary to clarify that the definitions apply to parts 9565.5500 to 9565.5520. This subpart and the definitions that follow in subparts 2 to 15 are necessary to inform persons affected by the rule of the meaning of specific terms used in this rule.

Subp. 2. Child. This definition is necessary to clarify a term used in the rules. Since the grants pertain to child care resource and referral and child care service development programs, it is necessary to define the term "child". The term defines, by maximum age, an individual who is a child. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 3.

It should be noted that Laws of Minnesota 1988, chapter 689, article 2, section 105 proposed to codify "Grants for Child Care Services" under

Minnesota Statutes, section 245.836. Under this suggested codification, the grant sections would closely follow the definitions in Minnesota Statutes, section 245.83. Minnesota Statutes, section 245.83, subdivision 1 states, "As used in sections 245.83 to 245.858 the words defined in this section shall have the meanings given them." (Emphasis added). Therefore, the definitions in Minnesota Statutes, section 245.83 would clearly apply to the Grants for Child Care Services had the statute been codified as Minnesota Statutes, section 245.836. Although the Revisor of Statutes codified the Grants for Child Care Services under Minnesota Statutes, section 245.872, it would be unreasonable to use definitions contrary to Minnesota Statutes, section 245.83. Moreover, Minnesota Statutes, section 256H.20 governing child care resource and referral grants authorizes the Commission of Human Services to make grants to county boards to carry out the purposes of Minnesota Statutes, section 245.84. Use of the definitions in Minnesota Statutes, section 245.83 insures that the terms used by counties and the Department of Human Services are consistent.

Subp. 3. Child care. This definition is necessary to clarify a term used in the rules. Child care is defined as care "outside" of the child's home for any part of a 24-hour day by someone other than a parent, legal guardian, or AFDC caretaker. The distinction of "outside" the child's home implies a licensed program which is reinforced by the definition of "child care services". The term "AFDC caretaker" was added for clarity since by statutory definition, child care is care by someone other than a parent or legal guardian. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 3a.

Subp. 4. Child care services. This definition is necessary to clarify a term used in the rules. This definition identifies types of child care providers that qualify for a child care services grant and identifies types of child care services that child care resource and referral programs must identify under the resource and referral requirements. The definition in the rule expands upon the statutory definition by adding "and school age child care programs licensed under parts 9503.0005 to 9503.0170 or legally exempt meeting State Board of Education standards. Since the definition of child includes children age 12 and under (14 and under if handicapped), it is reasonable to include licensed school age programs or legally exempt school age programs that comply with rules adopted by the State Board of Education.

Moreover, Minnesota Statutes, section 256H.20, subdivision 3 requires grant recipients to identify existing child care services which includes "family day care homes, public and private day care programs, full-time and part-time programs, infant, preschool, and extended care programs; and programs for school age children" (Emphasis added). Including school age programs licensed under parts 9503.0005 to 9503.0170 or legally exempt meeting the state board of education standards is consistent with child care services identified under Minnesota Statutes, section 256H.20, subdivision 3.

The rule definition also deletes "play groups" and "parent cooperatives" from the child care definition in Minnesota Statutes, section 245.83, subdivision 2. These terms are antiquated terms which have no statutory or rule definition. To the extent these entities exist, they are licensed and classified as either family day care homes, group day care homes, or child day care centers. Therefore, deletion of these two terms will eliminate potential confusion over child care services that may qualify for child care services grants.

Subp. 5. Child care worker. This definition is necessary to clarify a term used in the rules. The term child care worker means a person who cares for children for compensation. It also includes a person who has applied for a license as a child care provider. This definition is important because it identifies individuals who may qualify for grants for staff training and development expenses. The definition is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 3b.

Subp. 6. Commissioner. This definition is necessary to clarify a term used in the rules. The commissioner is the person delegated authority to adopt rules for administering grants for child care services under Minnesota Statutes, section 245.872 and child care resource and referral grants to public or private nonprofit agencies under Minnesota Statutes, section 256H.20. It is necessary to include within the definition persons to whom the commissioner has the authority to delegate the functions described in the rule because it would be physically impossible for the commissioner to perform all of the tasks assigned to the commissioner in statute. It is reasonable to allow the delegation to enable the commissioner to delegate his or her responsibilities to qualified staff who can effectively manage and control implementation of the rule. Including this delegation of responsibility in the definition also serves to notify interested parties of the delegation. The definition is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 4.

Subp. 7. Department. This definition is necessary to clarify a term used in the rules. The use of the term department in the rules is specific to the Minnesota Department of Human Services. Substituting "department" for the full title of the department is a reasonable way of shortening the rule.

Subp. 8. Development region. This definition is necessary to clarify a term used in the rules. Minnesota Statutes, section 245.872 provides that child care service grants shall be allocated to development regions designated by the Governor under Minnesota Statutes, section 462.385. Therefore, it is reasonable to define the term "development region" as the term is defined in Minnesota Statutes, section 462.385, subdivision 5.

Subp. 9. Facility improvement expenses. This definition is necessary to clarify a term used in the rules. Facility improvement expenses include expenses for building improvements, equipment, toys, and supplies needed to establish, expand or improve a licensed child care facility. The definition is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 4a.

Subp. 10. Interim financing. This definition is necessary to clarify a term used in the rules. The legislative definition was modified by inserting semicolons to make the complex sentence easier to read and understand. The "requirement" that interim financing be limited to 18 months was deleted from the definition but is included in part 9565.5520, subpart 7 which deals with interim financing. The definition is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 5.

Subp. 11. Local match. This definition is necessary to clarify a term used in the rules. Minnesota Statutes, section 256H.20, subdivision 3, paragraph (g) requires a "local match" for child care resource and referral grants but the term is not defined. In order to administer the grant provisions, it is

necessary to define the term "local match". Local match is any nonstate source of funds. It is important that the match be nonstate since different state funding sources may be available for child care resource and referral grants and the statutory language specifically uses the term "local". Requiring a nonstate source of funds ensures the programs will not be 100 percent funded with state funds and complies with the intent of the statute to require a local match. The definition also permits the use of "in-kind donations or services" if those donations or services are directly related to the purpose of the grant. The definition provides a reasonable standard for determining what is or is not a local match.

Subp. 12. Mini-grant. This definition is necessary to clarify a term used in the rules. A mini-grant is a funding subgroup of the child care services grant that may be used for facility improvements, start-up costs, interim financing, or staff training and development. The use of the mini-grant category is reasonable because it provides a means of separating large expenditure grant proposals from smaller grant proposals (proposals that involve expenditures of less than \$1,000). Administratively the mini-grant category allows the funding of relatively low cost improvements necessary to meet or exceed licensing requirements without forcing all grant applicants regardless of improvement or training costs to compete against each other. This funding category is reasonable because it provides an opportunity for applicants with low cost improvements to receive consideration for grant funding.

Subp. 13. Resource and referral program. This definition is necessary to clarify a term used in the rules. Although the Commissioner is delegated authority under Minnesota Statutes, section 256H.20 to make grants to public or private nonprofit agencies for child care resource and referral programs, section 256H.20 does not define "resource and referral program". However, under Minnesota Statutes, section 256H.20 the Commissioner is authorized to make grants to counties for carrying out the purposes of Minnesota Statutes, section 245.84. Minnesota Statutes, section 245.83 defines the term "resource and referral program". It would be unreasonable for the Commissioner and counties to have different definitions for the term "resource and referral program" under the same grant program. Therefore, the definition of child care resource and referral program is the definition provided in Minnesota Statutes, section 245.83, subdivision 6.

Subp. 14. Staff training or development expenses. This definition is necessary to clarify a term used in the rules. The definition establishes classes of expenditures which may qualify for staff training or development expenses under the child care service development grant. The definition is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 7.

Subp. 15. Training program. This definition is necessary to clarify a term used in the rules. Since grants are given for training and development, it is necessary to define what is an acceptable training program. An acceptable training program is a child development course or training course set forth under Minnesota Rules, parts 9502.0385 [Day Care Training] or 9503.0035 [Orientation, First Aid, and In Service Training]. The definition is reasonable because it specifically cites the training parts established in Minnesota Rules for family and group family day care and child care centers and is consistent with Minnesota Statutes, section 245.83, subdivision 8.

9565.5510 CHILD CARE RESOURCE AND REFERRAL PROGRAM GRANTS.

This part is necessary to establish standards and requirements for grant applicants; to establish minimum requirements for grant proposals; to establish criteria for ranking grant proposals; and to require retention of expenditure records.

Subpart 1. Availability of resource and referral program grants. This subpart is necessary to inform potential grant applicants of the availability of resource and referral program grants and to describe types of child care resource and referral grants that an applicant may apply for. There are three general types of child care resource and referral grants. One type is a grant for establishing, improving, or expanding a child care resource and referral program. Another type of grant is for providing consultation and technical assistance in establishing, improving, or expanding a child care resource and referral program. The third type of grant is a planning grant to plan for a child care resource and referral program. This subpart is also necessary to inform persons interested in obtaining a child care resource and referral grant of eligibility requirements. In order to be eligible to receive a child care resource and referral grant, an applicant must be a public or private nonprofit agency. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256H.20, subdivision 1.

Subp. 2. Federal funds; grant requirements. This subpart is necessary to inform grant applicants that they must comply with federal requirements when receiving federal grants for child care resource and referral programs and school age child care services under subpart 1. In addition, unless contrary to federal requirements, a grant applicant must also comply with the state grant requirements under subparts 3 through 16. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256H.20, subdivisions 2 and 4.

Subp. 3. Grant proposals. This subpart is necessary to inform grant applicants of basic grant proposal requirements. When funding is made available by the Legislature, the Department of Human Services will send out a grant announcement and request for proposals. The deadline for considering grant proposals will be established in the Department's request for proposals. It is not reasonable to attempt to fix a date certain in rule since the appropriation process is subject to some uncertainty. Furthermore, the amount of the appropriation will, to a large degree, determine the number of potential grant proposals since the applicant's perception of his or her likelihood of receiving a grant will be a determining factor in submitting a grant proposal. It is important that adequate time be given for an applicant to submit a grant proposal and for the advisory committee to review and rank the proposals. Therefore, no specific date is set in the rule.

It is also important to know the grant history of the various applicants. This information will ensure that grant proposals are not double funded by different agencies and will also provide a basis for comparing various grant proposals. As a matter of equity, if two grant proposals are equally ranked and one applicant has received state funding for one or more of the previous three years while another applicant has never received state assistance, then, with everything else equal, the applicant who has never received a state grant should be awarded the grant.

Finally, a public or private nonprofit agency must submit proof of its nonprofit status at the time of the application since being a nonprofit agency is an eligibility requirement established by statute.

This subpart is reasonable because it is consistent with Minnesota Statutes, section 256H.20, subdivisions 1 and 4.

Subp. 4. Geographical area of service. This subpart is necessary to inform grant applicants that the resource and referral program must service a defined geographical area. This subpart is necessary to ensure that grants are not provided for overlapping and duplicating services and to identify areas of service responsibility. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256H.20, subdivision 3.

Subp. 5. Requirements of grant recipients. This subpart is necessary to inform grant recipients that they must meet the minimum requirements set forth under subparts 6 to 9 if they are awarded a resource and referral program grant. The Legislature has established certain program requirements for grant recipients. Subparts 6 to 9 set forth those requirements. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256H.20, subdivision 3.

Subp. 6. Development of resource file and referral process. This subpart is necessary to inform recipients of a resource and referral grant that they must develop a resource file and referral process. With the exception of item H, items which must be included in the resource file and referral process are consistent with those set forth in Minnesota Statutes, section 256H.20, subdivision 3, paragraphs (a) to (f). Item H requires the grant applicant to demonstrate that funding will be available to continue the program for at least two years following the state grant. This requirement is necessary to insure that the grantee has the financial capacity to continue to operate without state assistance. This requirement maximizes limited resources by insuring the operation of a resource and referral program beyond the period of the state grant. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256H.20, subdivision 3.

Subp. 7. Documentation of service requests. This subpart is necessary to inform recipients of resource and referral grants of their requirement to document service requests. The documentation of service requests serves a dual function. First, it provides a means of documenting the need for child care resource and referral services. And, second, it provides a means of auditing services to ensure program funds are being expended for program services. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256H.20, subdivision 3, paragraph (c).

Subp. 8. Educational information available to parents. This subpart is necessary to inform grant recipients of the requirement that certain educational information must be made available to parents. This information includes information and criteria for assessing and evaluating the quality and suitability of child care, information on available parent, early childhood, and family educational programs in the community, and community resources for developmental assessment of children. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256H.20, subdivision 3, paragraph (d).

Subp. 9. Technical assistance to providers and employers. This subpart is necessary to inform grant recipients of the requirement that technical assistance must be provided to employers and child care providers. Technical information that the grant recipient must be able to provide employers or providers is set forth in items A to F and is consistent with Minnesota Statutes, section 256H.20, subdivision 3, paragraph (e).

Subp. 10. Grant allocation. This subpart is necessary to inform the public of the amount of the allocation for child care resource and referral grants. Under Minnesota Statutes, section 256H.20, the Department may receive a state appropriation for child care resource and referral programs or may receive federal funds for resource and referral programs. In addition, the Department may receive funding under Minnesota Statutes, section 245.872. Minnesota Statutes, section 245.872 authorizes the Commissioner to make grants to develop child care services, including facility improvement expenses, interim financing, resource and referral programs, and staff training expenses. (Emphasis added). The availability of grant funds under Minnesota Statutes, sections 256H.20 and 245.872 may depend on specific appropriation language.

The funding formula for allocating child care service grant funds to development regions is provided in Minnesota Statutes, section 245.872, subdivision 2. Child care services grants may be used for facility improvement expenses, interim financing, resource and referral, and staff training expenses.

Although under Minnesota Statutes, section 245.872 funds may be made available for child care resource and referral programs, no specific percentage of funds is mandated for facility improvement expenses, interim financing, resource and referral programs, or staff training expenses. However, Minnesota Statutes, section 245.872, subdivision 2, clause (1) restricts the award of funds to "no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses." In order to provide sufficient funding for resource and referral programs up to 25 percent of the grant funds available for child care services may be used for resource and referral programs. Actual allocations will depend on how funds are earmarked by the legislature. If no appropriation is made available to fund resource and referral programs under Minnesota Statutes, section 256H.20, then resource and referral programs may be funded out of Minnesota Statutes, section 245.872. If an appropriation is made to provide funds for child care resource and referral programs and child care services grants under both Minnesota Statutes, sections 256H.20 and 245.872, then funding of resource and referral programs under Minnesota Statutes, section 245.872 may not be necessary.

In order to insure that funds allocated will be expended, the rule provides that funds in excess of a development region's need may be used in other development regions. In addition, the rule provides that grants need not be awarded if the grant applicants fail to comply with the grant proposal requirements. This requirement is necessary to insure that all grant proposals comply with grant requirements and that poorly documented proposals will not receive funding simply due to the lack of competition in a development region. Finally, since resource and referral program funding is

only a subset of the child care services which may be funded under Minnesota Statutes, section 245.872, any funds allocated for resource and referral grants in excess of the grants approved by the commissioner shall be used for child care services under part 9565.5520.

Minnesota Statutes, section 256H.20 does not provide a specific funding formula for allocating resource and referral grant funds. Minnesota Statutes, section 256H.20, subdivision 1 states, "The commissioner of human services may make grants to public or private nonprofit agencies for the planning, establishment, expansion, improvement, or operation of child care resource and referral programs and child care services according to the provisions of this section and may make grants to county boards to carry out the purposes of section 245.84." Minnesota Statutes, section 256H.20, subdivision 3 states, "The commissioner may make grants to public or private nonprofit entities to fund child care resource and referral programs. Child care resource and referral programs must serve a defined geographic area...."

In order to insure statewide development of child care resource and referral programs, grant funds will be awarded on a statewide basis based on the quality of the individual grant proposal.

In order to give priority to the creation of new resource and referral programs, the commissioner may allocate up to 75 percent of the resource and referral funds for planning and start-up grants. Funds allocated for planning and start-up which are in excess of planning and start-up grant requests may be used to expand, improve, or operate existing ongoing resource and referral programs. This requirement is necessary to insure that priority is given to the development of new resource and referral programs and to insure appropriated funds are spent as intended by the legislature.

Subp. 11. Maximum grant amount and match requirements. This subpart is necessary to inform resource and referral grant applicant's of the maximum amount that the Commissioner may award a grant for. The maximum grant amount any entity may be awarded for the provision of service is \$60,000. (Emphasis added). The \$60,000 limit is set forth in statute under Minnesota Statutes, section 256H.20, subdivision 3, paragraph (g). The rule also establishes a maximum grant amount of \$10,000 that the Commissioner may award an entity for a planning grant. While it is possible that an ambitious grant proposal could require substantially more planning funds, the \$10,000 limit is sufficient for most planning efforts. A 25 percent local match is required for both service and planning grants. A service grant recipient must demonstrate that funding will be available for two years after the state grant is discontinued. A planning grant recipient must demonstrate that it has the expertise and organizational ability to complete the planning proposal within a maximum of two years. The specific time requirement for completing the planning project will be set forth in the grant contract and will depend on the scope of the planning project. The time requirement establishes a standard which will enable the Department to audit progress and expenditures under a planning grant. Obviously, if no time limit is placed on the planning grant, there is no means to insure funding accountability. This subpart is reasonable because with the exception of the planning grant standards it is consistent with Minnesota Statutes, section 256H.20, subdivision 3, paragraph (g). The authority for establishing standards for planning grant recipients is found in Minnesota Statutes, section 256H.20, subdivision 4.

Subp. 12. Resource and referral grant proposal ranking. This subpart is necessary to inform grant applicants that their grant proposal will be ranked by an advisory task force as provided in Minnesota Statutes, section 245.872, subdivision 3. In order to provide a means of ranking various proposals, specific criteria is set forth in items A to G. In addition, this subpart makes it clear that the task force is not required to recommend or rank a grant proposal that does not meet the grant proposal requirements in subparts 6 to 9. The purpose of this requirement is to insure that unacceptable grant proposals are not funded simply due to lack of competition within a particular development region.

With respect to the individual items in this subpart, item A is necessary to demonstrate a need for the resource and referral program in the geographical area to be served by the grant. The requirement that grants shall only be provided to one resource and referral program per service area insures limited funds will not be used to fund redundant services.

Item B is necessary to properly evaluate a grant proposal. Unless a grant proposal is based on complete and well developed budget considerations, it is unlikely to meet its stated objectives. The budget information will to a large degree define the parameters of any proposal.

Item C is related to item B and is necessary to insure program continuation is not dependent on state funding. The applicant must demonstrate that the program will be able to continue at least two years after receiving the state grant.

Item D is necessary to show that there is local support for the child care resource and referral program. This requirement is particularly important when two or more grant proposals are received for one service area. County social services agencies, parent groups, school groups, licensed child care providers, and community child care organizations are appropriate entities for indicating support for the resource and referral program. This requirement provides local input when there is competition for limited funds.

Item E is necessary to indicate the potential capacity of the program to achieve its stated goals. An understaffed program, especially if the program is overly ambitious, is unlikely to be able to achieve its objectives. In addition, it is necessary to identify organizational components and authority relationships.

Item F is necessary to insure the grant applicant has the capacity to meet state reporting and data collection requirements since the Commissioner is directed under Minnesota Statutes, section 245.871 to report on components of the child care system.

Item G is necessary to identify particular elements of the grant proposals which should be described in some detail. These elements include a description of the service area; means of identifying existing child care services; procedures for maintaining and updating the resource file; procedures for establishing a referral process; procedures for documenting service requests; procedures for providing technical assistance; and, methods of announcing service availability. This type of information is important in assessing the applicant's ability to provide child care resource and referral services.

This subpart is reasonable because it establishes clear criteria for evaluating and ranking grant proposals and is consistent with Minnesota Statutes, section 256H.20, subdivision 4.

Subp. 13. Restriction on grant recommendations by advisory task force. This subpart is necessary to place restrictions on grant recommendations by advisory task force members who may have a direct financial interest in a particular child care resource and referral grant. Since Minnesota Statutes, section 245.872, subdivision 3 requires that the grant review advisory task force members must be parents of children in child care, providers of child care, or citizens with a demonstrated interest in child care issues, it is possible that a particular task force member may have a direct financial interest in a resource and referral grant. This subpart prohibits a task force member with a direct financial interest in a grant to provide a recommendation or participate in the ranking of "that" grant proposal. Direct financial interest includes, but is not limited to, employment with the program or a financial interest in the program, membership on the program's board of directors, or a family member employed in or by the program. The term "family member" is qualified to include persons related to the advisory task force member by blood or marriage within the third degree of consanguinity. This includes such family members as parents, grandparents, brothers, sisters, nieces, nephews, uncles, aunts, and great-grandparents. While most advisory task force members would likely refrain from making a recommendation on a grant in which they had a personal interest, this subpart prohibits the advisory task force member from participating in the ranking of that proposal. This subpart is reasonable because it eliminates a potential conflict of interest or impropriety in funding recommendations.

Subp. 14. Awarding of grants. This subpart is necessary to inform grant applicants that the Commissioner will award resource and referral grants based on the recommendations of the advisory task force. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivision 2.

Subp. 15. Expenditure records. This subpart is necessary to to inform grant recipients that they must keep a record of all expenditures under the resource and referral program. Furthermore, the department is not liable for program costs incurred prior to a grant contract signed by the Commissioner. The requirement that expenditure records be maintained is necessary for auditing purposes to insure that grant funds were properly expended. This subpart is reasonable because it provides a means of quality control to insure funds are spent for the purposes for which they were appropriated.

Subp. 16. Audit of grant expenditures. This subpart is necessary to inform grant recipients that they may be subject to grant audits during the grant year and for a period of up to one year after the close of the grant period. This subpart is necessary to provide for financial accountability of public funds.

9565.5520 GRANTS FOR CHILD CARE SERVICES

This part is necessary to establish standards and requirements for applicants seeking child care services grants for facility improvement expenses, interim financing, resource and referral programs, and staff training expenses; to establish minimum requirements for grant proposals; to establish criteria for ranking grant proposals; and, to require retention of expenditure records to permit agency audits.

Subpart 1. Child care services grants. This subpart is necessary to inform potential grant applicants that child care services grants are available for facility improvement expenses, interim financing, and staff training expenses. In addition, a special child care services grant called a mini-grant is available for child care service development. Mini-grants may be used for facility improvement expenses, interim financing, and staff training expenses, but the amount of the grant may not exceed \$1,000. In addition, fewer grant requirements are imposed on mini-grant applicants. A discussion of the mini-grant may be found in subparts 15 to 18. In addition to other types of grants, Minnesota Statutes, section 245.872 authorizes resource and referral grants. Resource and referral grants are addressed under part 9565.5510. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivision 1 and Laws of Minnesota 1988, Chapter 689, article 2, section 266.

Subp. 2. Allocation of funds. This subpart is necessary to inform grant applicants and development regions of the funding allocations for child care services grants. Funds shall be allocated according to the allocation formula in Minnesota Statutes, section 245.872, subdivision 2. Up to 25 percent of a development region's allocation may be reserved for resource and referral programs under part 9565.5510. The remainder of the funds shall be used for facility improvement expenses, interim financing, child care staff training and for mini-grants. Minnesota Statutes, section 245.872, subdivision 2 provides that no more than 75 percent of the allocation for child care service development may be allocated to either child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses. This statutory requirement can be addressed prior to the announcement that child care services grants are available.

This subpart also provides that funds allocated to a development region in excess of its needs or where inadequate grant proposals were submitted may be used in other development regions for child care service development. This requirement insures that unacceptable grant proposals will not be approved when there is no or limited competition for a child care services grant in a development region. If the total funds available for child care service development are greater than the total grant requests, then the commissioner may use the excess funds for resource and referral grants under part 9565.5510. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivision 2 and Laws of Minnesota 1988, chapter 689, article 2, section 266.

Subp. 3. Eligible grant recipients. This subpart is necessary to inform potential applicants of eligibility requirements and the priority for awarding grants. Eligible grant applicants include licensed providers of child care, applicants in the process of obtaining a child care license, and

Subp. 6. Grants for facility improvement expenses. This subpart is necessary to identify what types of expenses qualify as a facility improvement expenses under the facility improvement expenses grant. Grants for facility improvement expenses may be used for building improvements, equipment, toys, or supplies needed to establish, expand, or improve a licensed child care facility. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 4a and section 245.872, subdivisions 1 and 4.

Subp. 7. Grants for interim financing. This subpart is necessary to identify how grants for interim financing may be used. Grants for interim financing may be used to carry out activities necessary for family day care homes, group family day care homes and child care centers to receive and maintain state licensing; to expand an existing child care program; to improve program quality; or to provide operating funds following receipt of state licensing. The standard for activities which may be funded with an interim financing grant is set forth in Minnesota Statutes, section 245.83, subdivision 5. It should be noted that there is not a clear statutory distinction between activities which may be funded with a facility improvement expenses grant or an interim financing grant. No attempt has been made to modify the legislative definitions for "facility improvement expenses" or "interim financing". Therefore, a grant applicant depending on the specific grant request could receive funding for a facility improvement under either a grant for interim financing or a grant for facility improvement expenses. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.83, subdivision 5, and section 245.872, subdivisions 1 and 4.

Subp. 8. Grants for staff training and development. This subpart is necessary to identify how grants for staff training and development may be used. The grants may be used to upgrade staff qualifications with priority given to staff training and development necessary to meet licensure requirements. Allowable expenses under this subpart includes, but is not limited to, tuition, transportation, required training materials and supplies, and wages for substitutes while the child care workers are engaged in training. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivisions 1 and 5 and section 245.83, subdivisions 7 and 8.

Subp. 9. Facility improvement and interim financing grant proposals. This subpart is necessary to inform applicants for a facility improvement expenses or interim financing grant of minimum grant proposal requirements. The grant proposal must document the need for the grant; the number and age groups the grantee is licensed to serve; the ages of children the grantee currently serves; the age group the grantee intends to serve after receiving the grant; a schedule for expending the grant funds; budgetary information on the improvement costs; and documentation of any state assistance received in the previous three years. Items A, E, F, and G require budgetary information to determine the need and reasonableness of the funding request. Items B, C, D require information on the ages of children served since child care needs for some age groups may be more critical than for others. This subpart is reasonable because it informs all applicants of grant proposal requirements and is consistent with the requirement in Laws of Minnesota 1988, chapter 689, article 2, section 266 that the Commissioner adopt rules to administer and implement the provisions for the child care services grants.

Subp. 10. Facility improvement and interim financing priorities. This subpart is necessary to establish priorities for funding facility improvement expenses and interim financing grant proposals. Minnesota Statutes, section 245.872, subdivision 4 establishes funding priorities for facility improvement and interim financing. Subdivision 4 states in part, "In evaluating applications for funding and making recommendations to the commissioner, the grant review advisory task force shall give priority to:

(1) new programs or projects, or the expansion or enrichment of existing programs or projects; ...".

As set forth in item 1, any type of project would be a funding priority since the improvements will be for either a new or existing program. Therefore, it is necessary to establish clear priorities for evaluating applications and making rank recommendations. Subpart 10, while consistent with Minnesota Statutes, section 245.872, subdivision 4, establishes specific grant proposal priorities. These priorities are proposals to meet licensure requirements; proposals to start new programs; proposals to expand license spaces; proposals for programs in areas with special needs; proposals that serve sick children, infants, toddlers, children with special needs, and children from low income families; and proposals to enrich existing programs. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivision 4 and Laws of Minnesota 1988, chapter 689, article 2, section 266.

Subp. 11. Ranking facility improvement and interim financing grant proposals. This subpart is necessary to inform advisory task force members of the priority for ranking facility improvement and interim financing grant proposals. Grant proposals shall be ranked based on the priorities in subpart 10 and the completeness of documentation required in subpart 9. This subpart also makes it clear that the advisory task force is not required to rank a grant proposal that does not meet the grant proposal requirements under subpart 9. A grant proposal will not be approved simply because there is a lack of competition for funding. As a practical matter, it is unlikely that there will be a shortage of grant applicants. However, to insure fiscal responsibility and accountability it is necessary that all grant applicants meet proposal requirements. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivisions 3 and 4 and Laws of Minnesota 1988, chapter 689, article 2, section 266.

Subp. 12. Staff training and development grant proposals. This subpart is necessary to inform applicants for staff training and development grants of grant proposal requirements. The grant proposal must include basic information such as the name of the provider organization and the amount of the grant requested; an explanation of why the grant is needed and how it will be used; a description of the training course and how the course will meet licensure requirements or improve child care services; a detailed budget; the length of time the applicant has provided child care services; and the length of time the applicant intends to provide child care services after completing the training. This information is necessary to properly evaluate grant requests. This subpart is reasonable because it is consistent with Laws of Minnesota 1988, chapter 689, article 2, section 266 which authorizes the Commissioner to adopt rules to administer and implement the provisions of the child care services grants.

Subp. 13. Staff training and development grant proposal priorities. This subpart is necessary to inform grant applicants and the advisory task force of the priorities for awarding staff training and development grant proposals. Priority is given to increasing the availability of licensed child care. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivision 5 and Laws of Minnesota 1988, chapter 689, article 2, section 266.

Subp. 14. Ranking staff training and development grant proposals. This subpart is necessary to inform the advisory task force that grant proposals must be evaluated and ranked based on the priorities under subpart 13 and the completeness of documentation under subpart 12. In addition, this subpart makes it clear that the advisory task force is not required to rank a grant proposal that does not meet the grant proposal requirements under subpart 12. A grant proposal will not be approved simply because there is a lack of competition for funding. As a practical matter, it is unlikely that there will be a shortage of grant applicants. However, to insure fiscal responsibility and accountability it is necessary that all grant applicants meet proposal requirements. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivisions 3 and 5 and Laws of Minnesota 1988, chapter 689, article 2, section 266.

Subp. 15. Mini-grants for child care service development. This subpart is necessary to inform grant applicants of the availability of a special type of child care services grant. This grant is a mini-grant which may not exceed \$1,000. The mini-grant must be used for facility improvement expenses, interim financing, or staff training and development. These are the same categories as the regular child care services grant. The mini-grants have been established to encourage family day care providers to submit grant proposals to improve and enrich their present programs; to encourage unlicensed providers to become licensed; and to encourage the start up of new family day care providers. As noted in the background information, during the 1988-1989 biennium, the Department received 1,577 grant proposals for mini-grants but was only able to fund 309 proposals. Since the family day care provider is an integral component of the state's child care network, it is important that funding be made available for applicants who lack the financial capacity to make relatively small improvements. This subpart is reasonable because it is consistent with Laws of Minnesota, chapter 689, article 2, section 266.

Subp. 16. Mini-grant proposals. This subpart is necessary to inform grant applicants of information required in a grant proposal. The grant proposal must include basic information such as the name of the provider or organization and the amount of the grant requested; an explanation of why the grant is needed and how it will be used; a detailed budget; the length of time the applicant has provided child care services, if applicable; and the length of time the applicant intends to provide child care services. This information is necessary to properly evaluate grant requests. This subpart is reasonable because it is consistent with Laws of Minnesota 1988, chapter 689, article 2, section 266 which authorizes the Commissioner to adopt rules to administer and implement the provisions of the child care services grants.

Subp. 17. Mini-grant priorities. This subpart is necessary to inform grant applicants and the advisory task force of the priority for awarding mini-grants. This subpart is reasonable because out of the \$51,558 allocated in the 1988-1989 biennium, the Department of Human Services received 1,577 mini-grant proposals requesting \$816,836. Since the demand for assistance exceeds available resources, it is necessary that priorities for child care mini-grants be set.

It is reasonable to rank family day care providers first for the mini-grants because there are over 11,000 licensed family day care providers in Minnesota and they provide the majority of licensed child care services to families. Since the purpose of the legislative appropriation is to improve and expand child care services and the income of many family day care providers is limited, a limited grant can be very helpful in start up costs or improvement costs for a family day care provider but would be considerably less helpful to a larger day care center. In addition, family day care providers are prioritize last under the larger child care service development grants. It is reasonable to rank public and nonprofit agencies second, employer based centers third and for profit centers fourth for the same reasons outlined under the child care services grants in subpart 3.

Subp. 18. Ranking mini-grant proposals. This subpart is necessary to inform the advisory task force of grant proposal information which must be considered in evaluating and ranking mini-grant proposals. Proposals are to be evaluated and ranked based on the completeness of documentation which indicates the physical plant improvement, equipment, or training needed to meet or exceed licensure; budgetary information; documentation of negative licensing actions; and child care needs in the service area. This subpart is reasonable because it informs grant applicants of information that will be evaluate in considering their grant requests; it provides uniform criteria for all applicants; and, it is consistent with the authority granted to the Commissioner to adopt rule to administer and implement the provisions of the child care services grants under Laws of Minnesota 1988, chapter 689, article 2, section 266.

Subp. 19. Restriction on grant recommendations by advisory task force members. This subpart is necessary to place restrictions on grant recommendations by advisory task force members who may have a direct financial interest in a particular child care services grant. Since Minnesota Statutes, section 245.872, subdivision 3 requires that the grant review advisory task force members must be parents of children in child care, providers of child care, or citizens with a demonstrated interest in child care issues, it is possible that a particular task force member may have a direct financial interest in a child care services grant. This subpart prohibits a task force member with a direct financial interest in a grant to provide a recommendation or participate in the ranking of "that" grant proposal. Direct financial interest includes, but is not limited to, employment with the program or a financial interest in the program, membership on the program's board of directors, or a family member employed in or by the program. The term "family member" is qualified to include any of the following persons related to the advisory task force member by blood or marriage within the third degree of consanguinity. This includes such family members as parents, grandparents, brothers, sisters, nieces, nephews, uncles, aunts, and greatgrandparents. While most advisory task force members

would likely refrain from making a recommendation on a grant in which they had a personal interest, this subpart prohibits the advisory task force member from participating in the ranking of that proposal. This subpart is reasonable because it eliminates a potential conflict of interest or impropriety in funding recommendations. This subpart is consistent with the authority granted to the Commissioner under Laws of Minnesota 1988, chapter 689, article 2, section 266 to adopt rules to administer and implement the child care services grant provisions.

Subp. 20. Awarding of grants. This subpart is necessary to inform grant applicants and the advisory task force members that the Commissioner shall award child care service development grants based on the recommendations of the grant advisory task force. This subpart is reasonable because it is consistent with Minnesota Statutes, section 245.872, subdivision 2.

Subp. 21. Grant expenditure records. This subpart is necessary to to inform grant recipients that they must keep a record of all grant expenditures under the child care services grant program. Furthermore, the department is not liable for program costs incurred prior to a grant contract signed by the Commissioner or the letter of award for a mini-grant. The requirement that expenditure records be maintained is necessary for auditing purposes to insure that grant funds were properly expended. This subpart is reasonable because it provides a means of quality control to insure funds are spent for the purposes for which they were appropriated. This subpart is also reasonable because it is consistent with the authority granted to the Commissioner to adopt rules to administer and implement the child care services grants under Laws of Minnesota, chapter 689, article 2, section 266.


Subp. 22. Audit of grant expenditures. This subpart is necessary to inform grant recipients that they may be subject to grant audits during the grant year and for a period of up to one year after the close of the grant period. This subpart is necessary to provide for financial accountability of public funds.

Expert Witnesses

If this rule should go to public hearing, the Department does not plan to have outside expert witnesses testify on its behalf.

DATE:

3/28/89


SANDRA S. GARDEBRING
Commissioner