

## **STATE OF MINNESOTA**

### **MINNESOTA DEPARTMENT OF VETERANS AFFAIRS**

#### **STATEMENTS OF NEED AND REASONABLENESS OF PROPOSED RULES, PARTS 9055.0500 TO 9055.0610, GOVERNING THE ADMINISTRATION AND OPERATION OF THE DEPARTMENT OF VETERANS AFFAIRS, AS MANDATED BY MINNESOTA STATUTES 196 AND 197.**

##### **I. INTRODUCTION**

The intent of these proposed rules, Parts 9055.0500 to 9055.0610 is to amend existing department rules governing the internal functioning and operation of the Minnesota Department of Veterans Affairs. These proposed rules were developed in response to Minnesota Statutes 197.608.

These rules were developed through analysis of current and past practices, policies and procedures of the department, consultations with department staff, and with the Association of Minnesota County Veterans Service Officers Rules Committee.

Numerous drafts of these proposed rules were written, and were reviewed by staff. The final draft of these proposed rules was forwarded for review and comment to each of Minnesota's County Veterans Service Officers, representatives of the United Veterans Legislative Council and the Commanders of the Congressionally Chartered Veterans Organizations, ie; the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Military Order of the Purple Heart, the Jewish War Veterans, the Marine Corps League, the Paralyzed Veterans of America and AmVets.

##### **A. Background:**

The original rules governing the operation of the Department of Veterans Affairs were adopted in 1991; the amendments to these rules are necessary to codify the application process for the County Veterans Service Officer Operational Improvement Grant Program.

## **II. STATEMENT OF COMMISSIONER'S AUTHORITY**

The Commissioner's authority to adopt these proposed rules is found in Minnesota Statutes at 196.04, which states that the "commissioner shall adopt reasonable and proper rules to govern the procedure of the divisions of the department and to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same, in order to establish the right to benefits provided for by the law." Specific Legislative direction to promulgate rules governing the County Veterans Service Officer Operational Improvement Grant Program is contained in the enabling legislation, Minnesota Statutes 197.608. These statutes give the commissioner the authority to adopt these rules.

## **III. IMPACT ON SMALL BUSINESS**

The impact of these rules on small business has been considered. These rules will not have an impact on small business as contemplated by Minnesota Statutes, section 14.115.

## **IV. STATEMENT OF NEED**

Minnesota Statutes, chapter 14.23 (The Administrative Procedures Act) and Minnesota Rules 1400.0500 govern the promulgation and adoption of rules. This statute also requires the commissioner to demonstrate the need for, and the reasonableness of, the proposed rules. To the extent that need and reasonableness are separate issues, need has come to mean that a problem exists which is addressed by the proposed rules and reasonableness has come to mean that the proposed rules are appropriate and are more reasonable than the other alternatives considered.

## **V. STATEMENT OF REASONABLENESS**

The commissioner is required by Minnesota Statutes, chapter 14.23 to make an affirmative presentation of the facts which establish the reasonableness of the proposed rules. Reasonableness means that the proposed rules are neither arbitrary nor capricious; that there is a rational basis for the commissioner's proposed rules. The reasonableness of the proposed rules is discussed below.

The rules proposed by the department to administer the County Veterans Service Officer Operational Improvement Grant Program are unique to the County Veterans Service Officer system. The rules as proposed will not place an unreasonable burden on county veterans service officers who seek a grant, while still meeting the legislative intent of the rules. To maintain consistency and order with regard to the broad range of persons served and services offered, these rules, whenever possible, use definitions and standards already in use.

## **A. NEED AND REASONABLENESS OF THE RULES AS A WHOLE**

The rules as proposed require decisions and determinations based upon identifiable, objective criteria. Adherence to identifiable criteria is required to eliminate arbitrary decision making and abuse of discretion. All decisions are subject to an appeals process, as defined in Minnesota Rules 9055.0080.

To the extent possible, these proposed rules follow definitions already contained in statute or used by other agencies in their rule text and utilize, either wholly or as a modified to fit the particular needs of the department, rules previously implemented by other agencies.

## **B. NEED AND REASONABLENESS OF INDIVIDUAL RULES DETAIL BY SECTION**

### **9055.0510 Notice.**

This rule is necessary to comply with requirements governing the availability of grants. It is reasonable as it ensures that all interested parties have equal access to grant information. The required notice will be published in the State Register and will be provided to individuals who request such notification.

### **9055.0520 Eligibility.**

#### **Subp. 1. Eligible Applicants.**

This rule is necessary to clearly establish which individuals are eligible to apply for the grant, as directed by Minnesota Statute 197.608. It is reasonable because it allows any county veterans service officer to apply for a grant; it does not discriminate between certified county veterans service officers and those serving a probationary period.

#### **Subp. 2. Eligible Projects.**

This rule is necessary to clearly define those projects that are eligible to be considered for funding under the terms of the grant program. The rule is reasonable as it provides applicants with a broad spectrum of categories of projects which will be considered for funding under the grant program. This rule allows applicants the opportunity to submit a qualifying application which meets the requirements necessary for funding consideration.

**Subp. 3. Ineligible Projects.** This rule is necessary to clearly define those projects that are not eligible to be considered for funding under the grant program. The rule is reasonable as it establishes categories of projects for which funding will not be approved, while not unduly limiting projects for which funding might be considered.

**Subp. 4. Deadline.** This is necessary to establish the timeframe within which applications will be accepted or rejected for the grant program. The rule is reasonable as it provides adequate notice to applicants of the timeline required for submission of applications.

The method of submission, by certified United States mail, places all applicant counties on an even playing field, by not accepting applications submitted by other means. Due to the distances involved, not all counties have the opportunity to deliver their applications; nor do all counties have access to a fax machine. The requirement that all applications be submitted by certified mail provides the most equal opportunity for all applications to be submitted at the same time, while not restricting the application process.

**Subp. 5. Categories.** This provision is necessary to carry out the Legislative intent of Minnesota Statutes 197.608. The rule is reasonable because it allows counties of similar veteran population to compete for grants.

#### **9055.0530 APPLICATION**

**Subpart 1. Required elements.** This rule is necessary to notify applicants of the information which must be provided in the application process. The rule is reasonable because it does not require unnecessary information and only require the County Veteran Service Officer's name, signature and a description of the proposed grant project.

**Subp. 2. Format of applications.** This rule is needed to further establish the information which is required to be submitted in the grant application. This information is needed to establish the priorities by which applications will be ranked. The rule is reasonable because all grant applications will be reviewed using the same criteria.

#### **9055.0540 APPROVAL, REJECTION.**

**Subpart 1. Review.** This rule is necessary to ensure applicant counties that applications which are approved will continue in the funding process. It is also necessary to clearly establish that grants will be made subject to the availability of funding, as required in the enabling legislation. The rule is reasonable because it does not require any additional information from the applicant other than the initial application.

**Subp. 2. Approve and accept.** The rule is necessary to ensure that applications which are approved continue in the grant award process. The rule is reasonable because it requires no further action on the part of the applicant to continue the process.

**Subp. 3. Rejection.** The rule is necessary to define the process by which applications which are not approved will be returned to the applicant county. The requirement that the department provide a written statement of the reason(s) for rejection is necessary to ensure that applicants are made aware of the reason(s) for the rejection.

The rule is reasonable in that it requires that the reason(s) for the rejection be specified, which should suggest possible remedies to the applicant.

**Subp. 4. Resubmitted applications.** The rule is necessary to ensure that resubmitted applications will be reviewed using the same criteria as that applied to initial applications and that resubmitted applications which are approved will be ranked in priority with other approved applications. The rule is also necessary because it puts applicants on notice that applications will be funded only so long as funds remain available in the applicants funding category.

The rule is reasonable because it requires no further action on behalf of an applicant who resubmits an application which is approved. In addition to appeal procedures set forth in Minnesota Rule 9055.0080, the rule also establishes criteria for resubmitted applications that are identical to the criteria for initial applications.

**Subp. 5. Priority counties.** This rule is necessary to meet the legislative requirement, as found in Minnesota Statute 197.608, that applicant counties which have not previously received a grant be shall provided priority for funding over those counties which have previously received a grant. The rule is reasonable because it ensures applicant counties that their application will receive priority for funding if they have not previously received a grant.

#### **9055.0550 GRANT AWARDS.**

**Subpart 1. Grant awards.** The rule is necessary to put applicant counties on notice that grants will be awarded on the basis of first-come, first-served, a requirement contained in the enabling legislation. The rule is reasonable because it presents the least restrictive method of complying with the requirements of the enabling legislation and works no hardship on the applying county nor the department.

#### **9055.0560 GRANT CONTRACT.**

**Subpart 1. Grant contract.** The rule is necessary to put applicant counties and the department on notice that a contract for the grant must be executed between the department and the applicant county. The rule is reasonable in that it will ensure that both parties to the contract will be provided written documentation of their obligations under the grant.

**Subp. 2. Grant specification.** The rule is needed to clearly establish the required elements, rights and obligations of the contract between the department and the applicant county. The rule is reasonable because it protects the rights of both parties to the contract equally.

**Subp. 3. Amendments.** The rule is necessary to establish the fact that amendments to the contract must be in writing and approved by both parties to the contract. The rule is reasonable because it protects the rights of both parties to the contract equally by allowing either party to make changes to the contract by the mutual consent of both parties.

**Subp. 4. Acceptance.** This rule is necessary because it establishes the requirement that a grants will be executed between the department and the applicant county if the grant application is supported by the county board of the applicant county. The rule is reasonable in that it is the least restrictive method to obtain this needed evidence of support.

#### **9055.0570 TIMELY EXPENDITURE REQUIRED.**

**Subp. 1. Timely expenditure required.** This rule is necessary to allow the department the opportunity to recover the monies and reallocate it to other applicant counties within the same category that have not been awarded a grant. The monies must be reallocated within the fiscal year to ensure the applicant counties who receive funding that has been reallocated have sufficient time to expend the funds within the fiscal year. The rule is reasonable because it ensures that applicant counties will be afforded ample opportunity to expend the grant monies, while ensuring that non-expended and returned funds will be available for reallocation to other grant applicants. The rule is also reasonable because it provides notice to applicants of possible loss of funds if the requirements for timely expenditure are not met.

#### **9055.0580 REPORT REQUIRED.**

**Subpart 1. Report required.** The rule is necessary to ensure that the department is provided all necessary documentation necessary to ensure that state funds have been expended appropriately. The rule is reasonable in that it does not impose reporting requirements on applicant counties beyond those already required by similar grant programs. The report also reasonably provides written documentation of the effectiveness of the grant program and provides information which might be of benefit to future applicants.

## **9055.0590 RECORDS.**

**Subpart 1. Records retention.** The rule is necessary to ensure that documentation required for legislative audit purposes is maintained for the required time period. The rule is reasonable in that it does not impose any record retention requirement over and above those required by the Legislative Auditor.

## **9055.0600 MONITORING GRANT RESULTS.**

**Subpart 1. Monitoring grant results.** The rule is necessary to track the effectiveness of the grant program and to provided the documentation necessary to demonstrate this effectiveness to the appropriate legislative oversight committees. The rule is reasonable as it is the least burdensome method to provide this information to the department and the Legislature.

The time frame involved is reasonable because it should provide ample time for the grantee to gauge the effectiveness of the grant in accomplishing the purposes for which it was received.

## **9055.0610 TERMINATION; RECAPTURE.**

**Subpart 1. Termination; recapture.** The rule is necessary to ensure that the department has a method to safeguard state funds which are not being expended expeditiously or appropriately. The rule is reasonable in that it imposes no restrictions on the grantee other than that of expending the funds within the time limit established elsewhere in these rules, while ensuring the department a method of safeguarding state funds, as we are charged to do.