

This document is made available electronically by the Minnesota Legislative Reference Library as part of an ongoing digital archiving project. <http://www.leg.state.mn.us/lrl/sonar/sonar.asp>

MINNESOTA URBAN INITIATIVE BOARD
STATEMENT OF NEEDS AND REASONABLENESS, ATTACHMENT A

IN THE MATTER OF THE PROPOSED RULES OF
URBAN INITIATIVE BOARD GOVERNING
ADMINISTRATION OF THE CHALLENGE GRANT PROGRAM
AS THEY RELATE TO SMALL BUSINESS AND MINNESOTA
STATUTES 14.115, subdivision 2.

INTRODUCTION:

Attachment A will state each component of subdivision 2, followed by whether the component is addressed in the proposed rules. If addressed in the rules, a description of its citation, necessity and reasonableness is included. If not included in the rules, this is stated.

M.S. 14.115, subd. 2. Impact on small business. When an agency proposes a new rule, or an amendment to an existing rule, which may affect small businesses as defined by this section, the agency shall consider each of the following methods of reducing the impact of the rule on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

The rules do not impose any additional reporting requirements on businesses receiving loans. Businesses receiving loans will be required to conform with Minnesota Statutes that govern the reporting requirements of businesses that receive financing from the State of Minnesota.

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small business

The rules do not impose any schedules or deadlines for compliance or reporting requirements.

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

The rules do not impose any additional reporting requirements for small business.

(d) the establishment of performance standards for small business to replace design or operational standards required in the rule; and

Post-It™ brand fax transmittal memo 7671		# of pages >
To <i>Michelle</i>	From <i>Mark Agthuis</i>	
Co.	Co.	
Dept.	Phone #	
Fax # <i>296-1321</i>	Fax # <i>296-5287</i>	

The rules do not establish performance standards to replace design or operational standards for small business.

(e) the exemption of small businesses from any or all requirements of the rule.

Small businesses, as defined by M.S. 14.115, subdivision 1, are likely to be applying for and receiving loan funds of the Urban Challenge Grant Program. The rules do not make distinctions between small businesses and other businesses in the applicability of individual rules. Each rule is designed to make loan funds extremely accessible.

MINNESOTA URBAN INITIATIVE BOARD

STATEMENT OF NEED AND REASONABLENESS .

IN THE MATTER OF THE PROPOSED RULES OF
THE URBAN INITIATIVE BOARD GOVERNING
ADMINISTRATION OF THE CHALLENGE GRANT PROGRAM

INTRODUCTION:

The 1993 Minnesota Legislature established the Urban Initiative Board (Minn. Stat. chap. 116M (Supp. 1993)) to make urban challenge grants to nonprofit corporations in order that these corporations would make loans to new and expanding businesses to promote minority business enterprises and job creation for minority and other persons in low-income areas.

This statement of needs and reasonableness describes the rules proposed for the operation of the urban challenge grant program. The format used in preparing this statement is as follows: each rule is stated first, followed by a discussion of the necessity of the proposed rule, and its reasonableness.

4355.0100 PURPOSE.

The purpose of this chapter is to establish:

- A. procedures for use of the revolving loan fund under Minnesota Statutes, section 116M.18.;
- B. procedures for the Urban Initiative Board to certify and enter into agreements with nonprofit corporations;
- C. procedures for nonprofit corporations to make loans to eligible businesses.

These purpose statements are necessary in order to identify the intent of the Challenge Grant rules. These statements are reasonable because they will enable the public to more quickly understand the general content of the rules.

4355.0200 DEFINITIONS.

Subpart 1. Scope. For the purposes of this chapter the terms in this part and in Minnesota Statutes, section 116M.14, have the meanings given.

Subp. 2. Grant agreements. "Grant agreements" means an agreement between the state and a nonprofit corporation through which the state provides funds to carry out specified programs, services, or activities.

This term is necessary to indicate the contractual nature of the relationship which will be formed between the state and the recipients of the urban challenge grants. It is reasonable since the state will provide funds for only those programs, activities, or services related to the urban challenge grant loan program.

Subp. 3. Nonprofit corporation. "Nonprofit corporation" means a not-for-profit organization operating in one or more eligible cities and certified by the board to receive grants and disburse these funds in the nature of loans to qualifying businesses.

This term is necessary to clarify that, in the context of the rules, nonprofit corporation can only mean an organization certified to enter into an urban challenge grant agreement. It is a reasonable description of these organizations since it provides for a wide variety of organizations to apply for participation in the program, but is consistent with Minnesota Statutes, section 116M.18.

Subp. 4. Nonprofit revolving loan fund. "Nonprofit revolving loan fund" means a board-certified revolving loan fund established by a nonprofit corporation to provide loans to new and expanding businesses in low-income areas.

This definition is necessary in order to differentiate between the nonprofit corporation's revolving loan fund and the urban initiative board's revolving loan fund. It is reasonable because this is consistent with Minnesota Statutes, section 116M.18 subd. 2.

Subp. 5. Urban revolving loan fund. "Urban revolving loan fund" means a fund established by the board to make grants to nonprofit corporations.

This definition is necessary to differentiate between the nonprofit corporations' revolving loan fund and the urban initiative board's revolving loan fund. This is reasonable since it is consistent with Minnesota Statutes, section 116M.18 subd. 3

4355.0300 BUSINESS LOANS BY NONPROFIT CORPORATIONS.

Subpart 1. Generally. The board shall make available funds from the urban revolving loan fund for nonprofit

corporations. The money awarded to each corporation shall be appropriated to its nonprofit revolving loan fund to be used to make loans to businesses in low-income areas. The funds are to be awarded on a project-by-project basis and must be matched by the corporation with an equal amount of money from sources other than government appropriations.

This paragraph is necessary in order to clarify the role of the nonprofit corporations in the challenge grant program, and how money provided to these corporations is to be used. It is reasonable that funds be made available on a project-by-project basis because this is consistent with the provisions of Minnesota Statutes, section 116M.18 subd. 3.

Subp. 2. Grant agreement required. A grant agreement must be established with each nonprofit corporation certified for funding by the board. Grant agreements shall be valid for a period of one year from the time they are fully executed. Agreements may be renewed by the board based on an evaluation of the corporation's lending activities, a finding that the corporation has complied with all the provisions of the agreement, and has made substantive progress in achieving the goals described in its application.

In the event that a grant agreement is not renewed, the corporation must continue to administer all loans it may have made under the provisions of the grant agreement and Minnesota Statutes, section 116M.18.

This rule is necessary in order to establish the grant agreement as the legally binding agreement between the board and the corporation, and to inform the corporations about the general nature of the agreement. It is reasonable since the renewal criteria are consistent with Minnesota Statutes, section 116M.18 and the implementation of the corporation's own plans and goals. It is reasonable that the corporation continue to administer its loans in order to assure the business and lending community that challenge grant loan program will retain a sufficient level of continuity. Corporations will also benefit from their administration since they will continue receive a portion of the loan repayments.

Subp. 3. Application by nonprofit corporation. Any nonprofit corporation wishing to be certified as a participant in the urban challenge grant program must apply in a form prescribed by the board. The application must include:

This paragraph is necessary to inform nonprofit corporations that they must make application to participate in the urban challenge grant program and be awarded a grant. It is reasonable because it is consistent with Minnesota Statutes, section 116M.18 subd. 2 which specifies criteria for the selection of a corporation by the Urban Initiative Board.

A. an assurance signed by the nonprofit corporation's chair that the applicant will comply with all applicable state and federal laws and requirements;

This rule is necessary to ensure that the organization is aware that it will be expected to comply with all state and federal laws and requirements. It is reasonable since any public money provided to the nonprofit corporation must be used in a lawful manner.

B. a resolution passed by the applicant's board of directors approving the submission of an application and authorizing execution of the grant agreement if funds are made available;

This rule is necessary to ensure that the corporation's governing body has considered and agreed to participate in the challenge grant program and execute a grant agreement. It is reasonable since some evidence of this consideration should be provided to the board as part of any formal application for funding by the corporation.

C. a plan demonstrating the applicant's eligibility pursuant to Minnesota Statutes, section 116M.18, the manner in which minority business enterprises will be assisted, the outcomes expected to occur as a result of the corporation's participation in the program; and

This rule is necessary to inform potential participants that they will have to document the organization's eligibility for this program, who its clients will be, and how those clients will benefit from their participation in this program. It is reasonable since it allows the corporation to provide a clear explanation of its objectives and capabilities, while providing the board a basis on which to review potential candidates.

D. any additional information that the board finds is necessary to clarify the applicant's ability to achieve the program's objectives.

This rule is necessary to give the board the authority to request additional information that may be necessary to clarify and

evaluate the application. It is reasonable since it gives the board the ability to obtain more information from an applicant whose original application might be incomplete or unclear. At the same time, the rule specifies that any additional information requested must be directly related to the purposes of the challenge grant program.

Subp. 4. Board Review. The board will certify the corporation if it has demonstrated that it fully meets the eligibility standards in Minnesota Statutes, section 116M.18, subdivision 2.

This rule is necessary to specify that the board will approve a corporation's participation in the urban challenge grant program. Corporations which are certified for participation may then enter into a grant agreement with the board. This is reasonable since the board's standards for approval are consistent with state statutes.

Subp. 5. Disapproval of applications. In cases where the corporation fails to demonstrate that it has or can reasonably be expected to develop the capacities required by Minnesota Statutes, section 116M.18, the board must disapprove the application. The commissioner shall inform the corporation of the board's decision, in writing, stating the reasons for the denial.

This paragraph is necessary in order to establish the criteria for denial of an application. It is reasonable since the grounds for denial are consistent with the act, and the corporation will be informed of the board actions in writing.

Subp. 6. Contents of grant agreement. If certified, the board must enter into a grant agreement with the nonprofit corporation. The grant agreement must include provisions that:

A. the corporation has established or will establish a board-certified revolving loan fund to provide loans to new and expanding businesses in low-income areas;

This paragraph is necessary to inform potential applicants that a board-certified revolving loan fund must be established to provide loans to new and expanding businesses. It is reasonable since it is in accordance with Minnesota Statutes, section 116M.18 Sub. 2.

B. the grant recipient will comply with all applicable state and federal laws, including the requirements of Minnesota Statutes, section 116M.18; and

This paragraph is necessary to inform potential applicants that, as part of the grant agreement, they are obligated to comply with all state and federal laws. It is reasonable since the grant award is composed of public funds, and therefore, should be used in a lawful manner.

C. no grant funds shall be used to finance activities not approved in either the grant agreement or each loan agreement.

This paragraph is necessary in order to inform nonprofit corporations and business enterprises that they will be obligated to expend funds only for those activities that are consistent with the Urban Challenge Grant program. It is reasonable to expect the recipients of public funds to use those funds in this manner.

Subp. 7. Other grant requirements. The following provisions apply to grants awarded:

A. if it is determined that an improper use of the funds has occurred, the board shall take whatever action is necessary to recover improperly spent funds.

B. grant recipients must return funds that are improperly expended;

These rules are necessary to enable to board to recover funds which might have been used for activities other than those authorized in the grant agreement. They are reasonable since the board is responsible for the proper use of the challenge grant funds, and it should have appropriate authority to recover those funds that used in violation of the grant agreements provisions.

C. the board shall suspend payment of funds to recipients that are not in compliance with applicable state and federal laws, rules and regulations;

This paragraph is necessary to order that the board can take action against any recipients of challenge grant funds that are not in compliance with applicable state and federal laws, rules and regulations. It is reasonable since the grant agreement requires this compliance and there should be some enforcement mechanism in cases of violation.

D. amendments to the grant agreement must be in writing; and

This paragraph is necessary to establish the amendment procedure

for grant agreements. It is reasonable because amendments in writing avoids the potential for misunderstanding the exact wording or intent of an amendment which is acceptable to all the grant partners.

E. the grant agreement may authorize the nonprofit corporation to be paid for administrative expenses out of the interest earned on loans it originates.

This paragraph is necessary to notify corporations that a portion of their administrative expenses are reimbursable from interest earnings. This is reasonable because it is consistent with Minnesota Statutes, section 116M.18 subd. 5.

Subp. 8. Corporation to make business loans. Any business may make an application to the nonprofit corporation for an urban challenge grant loan. The application must be in a form approved by the corporation and the board. The corporation must review the application and may give preliminary approval for the loan based on Minnesota Statutes, section 116M.18. The loan application must then be forwarded to the board for final approval.

This paragraph is necessary to inform interested business enterprises that they should make application for an urban challenge grant loan with a nonprofit corporations which has signed a grant agreement with the board. It also establishes that both the corporation and the board must approve an application for a challenge grant loan. This is reasonable because it is consistent with Minnesota Statutes, section 116M.18 subd. 3.

4355.0400 BUSINESS LOANS BY THE BOARD.

If the board receives a grant, gift, or loan, authorizing or requiring it to make business loans directly to qualifying businesses, and the board determines that businesses do not have access through a certified corporation, the board may receive applications for an urban challenge grant loan on the forms it prescribes. The board shall review applications, and based on the provisions of Minnesota Statutes, section 116M.18 and the business loan criteria in part 4355.0500, may approve them. If an application is denied, the commissioner shall inform the applicant as to the reasons for the denial.

This rule is necessary to clarify the authority of the board to make loans to businesses under certain circumstances. It also identifies the circumstances in which the board might act. This is reasonable because the statutory provisions which authorize the board to accept gift, grants, or loans may lead to situations where

those awards are conditioned on the board making direct loans. This is also reasonable because there may be some instances where certain geographic areas might not be served by a nonprofit corporation, and as a result, some business enterprises in eligible areas might not have access to the challenge grant program.

4355.0500 BUSINESS LOAN CRITERIA.

Subpart 1. Terms and conditions.

A. The interest rate on a loan shall be established by the corporation, but may be no less than two percent per annum, nor more than ten percent per annum.

B. The corporation may only charge the business all out-of-pocket administrative expenses connected with originating the loan at the time of closing.

C. The loan funds may be used for normal business expenses including, but not limited to, site acquisition, new construction, renovation, machinery and equipment, and working capital. Loans may not be used to refinance a business or personal existing debt.

These rules are necessary in order to inform nonprofit corporations and business enterprises what minimum terms and conditions may be part of any loan made by this program. Paragraph A is reasonable because it is consistent with Minnesota Statutes, section 116M.18, and provides corporations with the flexibility necessary to respond to different business conditions. At the same time it provides business owners with protection against excessive interest rates.

Paragraph B is reasonable because it is consistent with the provisions of the Minnesota Statutes, section 116M.18 which allows the corporation to recover a portion of their administrative expenses related to the program. At the same time, this limits the amount of expenses that can be charged against a business.

Paragraph C is reasonable because it allows business to use challenge grant loan funds for a wide variety of legitimate business purposes. The restrictions specified are intended to ensure that the program will support the creation of new jobs in the eligible cities.

Subp. 2. Loan repayment. For loans made by the board, all loan repayments must be deposited in the urban revolving loan fund for further distribution to businesses or nonprofit corporations pursuant to Minnesota Statutes, section 116M.18;

For loans made by a nonprofit corporation, amounts equal to

one-half of the principal and interest must be deposited in the urban revolving loan fund. The principal payments shall be made available to the corporation originating the loan in order to make additional loans, as long as the corporation remains certified and the grant agreement with the board is in effect. The board may return interest payments to the corporation in order to pay for the corporation's administrative expenses.

The remaining amount of the loan repayment may be deposited in the nonprofit revolving loan fund created by the corporation which originated the loan for further distribution by the nonprofit corporation, or for other uses as may be determined by the corporation.

This rule is necessary in order to specify the manner in which loan repayments will be handled and how they should be used in the future. It is reasonable because it ensures permanency of the revolving loan funds. Also, it is consistent with the loan repayment requirements established in Minnesota Statutes, section 116M.18 subd. 5.

Peter Gillette, Jr.
air
Urban Initiative Board