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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 95-233

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

The rule establishes that the criteria that the department will use in making an award from the information technology investment fund include “any other criteria approved by the joint committee on information policy pursuant to s. 16.971 (5) (b), Stats.”. [See s. Adm 25.03 (5).] Section 16.971 (5) (g), Stats., as created by 1995 Wisconsin Act 27, directs the department to promulgate rules governing the administration of s. 16.971 (5), including the criteria for distributing these grants. This directive implies that each criterion will be established in a process that includes the rule promulgation process and lists the criterion in the Administrative Code. Thus, the statutory authority to reference any future criteria approved by the Joint Committee on Information Policy, rather than amend ch. Adm 25 and list them in the Administrative Code at the time that they are approved, is not apparent.

2. Form, Style and Placement in Administrative Code

The text of a provision containing a reference to multiple statutes should list the statutes in ascending order. This was not followed in the statutory references in s. Adm 25.01.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Under s. 16.971 (5) (b), Stats., the department: (1) must annually submit its proposed criteria for the award of grants in the following fiscal year to the Cochairpersons of the Joint Committee on Information Policy; and (2) shall not award any grant under the criteria until the

criteria are approved by this committee. The analysis accompanying the rule should indicate whether the committee has approved the criteria listed in the rule or when this approval will be sought.

b. Section 16.971 (5) (g), Stats., directs the department to promulgate rules governing the administration of s. 16.971 (5), including criteria for distributing grants under par. (a) in s. 16.971 (5). This rule establishes the department's criteria for distributing these grants but it does not provide for the general administration of s. 16.971 (5), Stats. Does the department intend to promulgate another rule governing the administration of s. 16.971 (5), Stats.?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The department should review the following undefined terms to determine whether a definition is necessary to ensure consistent application of the rule:

- (1) "Agencies," as used in s. Adm 25.02, and "agency," as used in s. Adm 25.03 (1), (2) and (3).
- (2) "Base funding," as used in s. Adm 25.03 (1) and (3).
- (3) "Basic, standard infrastructure," as used in s. Adm 25.03 (3). Should this infrastructure be limited to infrastructure relating to the use of information technology?

b. If the department intends that all of the criteria in s. Adm 25.03 (1) to (5) will be used in making an award under s. 16.971 (5), Stats., then the department should consider amending s. Adm 25.03 (intro.) to insert "all of" after "use." Also, since the criteria in s. Adm 25.03 (3) and (4) relate to a specific project, to be consistent, s. Adm 25.03 (intro.) should refer to "award" in the singular, i.e., "When making an award...."

c. The reference to a project providing "additional value for the state" in s. Adm 25.03 (4) is open to interpretation. Can the department provide more specific guidance on what constitutes "additional value"?