



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 22-056

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

SECTION 11 of the proposed rule could be folded into SECTION 10, with the other created subsections.

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

a. The following comments apply to the department’s analysis for the proposed rule:

- (1) In the first line of the explanation of statutory authority, consider replacing “the Department” with “the Department of Workforce Development (the Department)”.
- (2) In the first sentence of the first paragraph under “application for grants”, consider replacing “or GPA” with “(GPA)”.
- (3) The last sentence of the first paragraph under “applications for grants” should clarify that one member of a consortium of placement partners needs to act as the applicant for the grant. As written, it suggests that the rule change is to allow a private for-profit or nonprofit business or service provider to serve as the applicant, when in fact the rule change is to allow for a consortium to apply, but only if one member serves as an applicant.
- (4) In the first sentence of the second paragraph under “applications for grants”, consider replacing “the following changes” with “certain changes”.
- (5) The final sentence, under “applications for grants”, states that the rule requires the department to deny an application that fails to meet any eligibility requirements or to include the required contents. However, while amended s. DWD 801.05 (5) (a) states that “[a]ll grant applications shall meet the eligibility requirements under s. DWD 801.04 and include all of the application contents specified in sub. (4)”, it also states that the “department may deny any application that fails to meet any of the eligibility requirements or fails to comply with the format and content

specifications”. This sentence, combined with s. DWD 801.06 (2) (intro) and (a), which states that the department may reject any application for failure to meet the content specifications under s. DWD 801.05 (4), suggests that the rejection is discretionary and not required.

- (6) Under “department action on applications”, consider changing “2) the date by which the Department anticipates acting on the application” to “the date by which the Department anticipates finalizing action on the application” or “the date by which the Department anticipates making a decision on the application”.
 - (7) In the first item under “other revisions”, consider rewording to clarify the rule change and its effect: “Eliminates requirements regarding the Department’s ownership of instructional materials, software, and equipment developed under grants in order to allow grantees to make future use of those items”.
 - (8) Under “comparison with rules in adjacent states, Minnesota”, change “a one-to-one ratio” to “a near one-to-one” ratio, because it is described as requiring employers to provide approximately one dollar for every public dollar.
 - (9) Under “comparison with rules in adjacent states, Michigan”, consider either eliminating the “and” between “technology” and “manufacturing”, or group the clusters into a numbered list because it is difficult to tell which industries are clustered together or if each named industry is its own cluster.
- b. In s. DWD 801.03 (10), on page 7, line 20 to page 8, line 7, consider drafting as follows:

DWD 801.03 (10) (intro.) “Grant Program Announcement” or “GPA” means a document ~~that describes~~ describing a grant program, ~~invites~~ that includes all of the following:

(a) Solicitation of applications for the grant, specifies grants, that specifies who may apply, and establishes application procedures, criteria including requirements for demonstrating eligibility under s. DWD 801.04.

(b) Criteria for awarding grants, and conditions.

(c) Conditions and restrictions that accompany grants, including any outcomes the grantee must achieve under the grant program and any matching funds required by the grantee under s. 106.27 (1) (intro.), Stats.

c. In s. DWD 801.04 (1), consider retaining the language that an organization is eligible to apply for grant funds rather than stating that it is eligible to receive funds, which could be read to imply that the applicant will receive the funds.

d. In s. DWD 801.04 (2), on page 10, line 21, consider replacing “if it proposes a plan that” with “its proposed plan” or replacing “if it proposes a plan that does all of the following:” with “if its proposal demonstrates the project will do all of the following:”.

e. In s. DWD 801.04 (2) (a), on page 11, line 3, consider replacing “increasing” with “improving”.

f. In s. DWD 801.05 (5) (b), it is unclear what it means to evaluate grant applications “against” criteria specified in the GPA. Consider replacing that language to indicate that evaluators may compare the applications to the criteria or that evaluators may evaluate grant applications “using” the criteria specified in the GPA.

g. In s. DWD 801.05 (6) (d), consider using the active voice to replace, on page 14, line 22, “considerations may include” with “the department may consider” or “an evaluator may consider”.

h. In s. DWD 801.05 (6) (d), consider adding, on page 15, line 1, after “project,” “cost per trainee”, to match the created language in s. DWD 801.06 (2) (c).

i. In s. DWD 801.06 (3) (b), on page 15, line 22, consider replacing “acting” with “issuing a decision”.

j. In s. DWD 801.06 (4) on page 16, line 6, consider changing “notice of awards” to “notice of denial” unless applicants whose applications are denied receive a notice of awards.

k. In s. DWD 801.08 (1), on page 17, line 5, consider inserting “from” before “public funds” to make clear that the public funds need to be specifically authorized by federal or state law, but the private funds do not.

l. In s. DWD 801.09 (1) (d), on page 18, line 10, consider replacing “except as provided in” with “pursuant to”.

m. In s. DWD 801.13 generally, it is unclear whether the duties imposed on a grantee apply to every member of a consortium that receives grant funds or only to the member that acts as the lead applicant. In s. DWD 801.03 (9), a grantee is defined as a public or private organization receiving a grant from the department. However, s. DWD 801.10 (4) is amended to clarify that the grant amount cap does not apply to a grantee serving as an applicant for a consortium of placement partners. If only the lead applicant receives funds from DWD, are the consortium partners required to comply with the duties listed in s. DWD 801.13, or must the lead applicant comply on their behalf, or must only the lead applicant comply?