



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 02-010

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 September 1998.]

1. Statutory Authority

Section DWD 59.03 (8) provides that the department “may require other measures to ensure compliance with federal law and state child care policy, maximize federal dollars received by the state, and ensure consistent management of grant funds.” Pursuant to s. 49.137 (4m), Stats., these provisions must be specified by rule.

2. Form, Style and Placement in Administrative Code

- a. In s. DWD 59.04 (2) (c), “shall” should replace “must.”
- b. In s. DWD 59.07 (2), the first sentence should be renumbered par. (a), and the subsequent paragraphs should be renumbered accordingly.
- c. Section DWD 59.07 (2) (b) and (c) could be consolidated into one paragraph because all of these requirements appear to address the issue of the level of funding for continuing grants.

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

- a. Several places in ch. DWD 59 refer to the applicant meeting the “requirements of federal law.” This “federal law” should be specifically referenced to put the applicant on notice regarding what federal requirements the applicant must comply with.

b. Section DWD 59.03 (6) (a) references “continuing” grants. A cross-reference to the provisions in s. DWD 59.07 (2) should be included.

c. Section DWD 59.05 (1) references a requirement that match expenditures shall be from “federal revenues specifically authorized by federal law to be used as a match to federal funds.” It should be clarified what revenues authorized by federal law may be used as a match to federal funds.

d. Section DWD 59.05 (4) (h) should specifically reference 42 U.S.C. s. 9858e, since this seems to be the only statutory section that has relevant information regarding items that can be funded with the grant money.

e. Section 59.06 (2) (b) prohibits a tribe and a local government from using grant funds for construction or major remodeling. However, 42 U.S.C. s. 9858m (c) (6) allows tribes, in some cases, to utilize grant funds for remodeling projects. This should be corrected in the rule.

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

a. In s. DWD 59.02 (7), the term “revenue sharing” should be replaced with “shared revenue.”

b. Section DWD 59.03 (2) provides that the department shall “periodically” publish a request for proposals for community child care initiatives. First, there should be more specificity as to when this request for proposals shall be published. Second, the term “request for proposals” should be replaced with “RFP,” since that acronym is used consistently in all other parts of the rule.

c. Section DWD 59.03 (3) and (4) provides that the department shall “modify” certain applications. Can it be clarified under what conditions, and how applications would be modified and what happens to the application once it is modified?

d. Section DWD 59.03 (5) (b) provides that part of the formula for allocation of funds will be based on the percentage of the state’s “recent” births. The time period for “recent” births should be more specific.

e. Section DWD 59.04 (2) (a) provides that an application must “certify” the match funds required for the requested amount. How are match funds “certified”? Does this mean that all of the funds have to be identified and raised prior to submission of the application? This same comment applies throughout the rule wherever a certification of match funds is referenced.

f. In s. DWD 59.04 (2) (b), how would one qualify as a “grant partner”?

g. In s. DWD 59.04 (2) (c), what is a “matching partner”? How does this differ from a “grant partner” in the prior paragraph?

h. Section DWD 59.04 (2) (c) refers to “the collaborative.” It is unclear what this means. Is it a group of two or more local governments or tribes that collaborate on an application? If so, this should be specified.

i. Section DWD 59.05 (3) requires a match expenditure to be made “during the required matching period.” This time period should be more specific.

j. Section DWD 59.05 (5)’s meaning is unclear. Does this mean that money that is already being spent on public pre-kindergarten and pre-school programs can also be applied to the match expenditure requirements? If so, this seems to conflict with other provisions of the rule, including s. DWD 59.05 (2).

k. In s. DWD 59.06 (1) (intro.), should the words “any of” be inserted prior to “the following ways,” to clarify that an applicant does not need to perform all of the listed functions? Also see sub. (2) (intro.).

l. The provisions in s. DWD 59.06 (1), allowable uses, seem to provide different uses for the grant funds than are specified for the match funds in s. DWD 59.05 (4). Why would match funds be used for different purposes than grant funds? Can these two requirements be combined?

m. Section DWD 59.06 (2) (e) prohibits using grant funds for “public pre-kindergarten services.” What are these services?

n. Section DWD 59.07 (2) refers to “funding cycles.” What does a funding cycle consist of?

o. Section DWD 59.07 (2) (b) requires the department to fund a request for a continuing grant in accordance with the listed provisions. Does the department intend to commit to the specified amount in each case? If this is not the intent of the rule, the word “shall” should be modified.