



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 13-045

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

2. Form, Style and Placement in Administrative Code

a. The rule summary should include the place where comments are to be submitted and the deadline for submission of comments. [s. 1.02 (2) (a) 13., Manual.]

b. In s. DWD 801.03, why does the proposed rule create separate, but similar, definitions under subs. (7), (18), and (19) for “governmental body”, “public agency”, and “public organization”? The agency might consider defining only “public organization” and using that term throughout the text of the proposed rule.

c. In s. DWD 801.03, the following terms are not used in the proposed rule and should be deleted from the definitions:

- (1) Subsection 6, “Funding year”.
- (2) Subsection 11, “Grantor”.
- (3) Subsection 12, “In-kind contributions”.
- (4) Subsection 16, “Participation”.

d. In s. DWD 801.03 (18), the following language should be deleted as it unnecessarily repeats what is contained in s. 46.856 (1) (b), Stats.: “, which is a county, city, village, town or school district, an agency of the state government or an agency of a county, city, village, town or school district”. [s. 1.01 (7) (d), Manual.]

e. In s. DWD 801.04 (1), the agency might consider replacing “public, private, non-profit or private for-profit agency or organization” with “public or private organization” in order to use the definitions in s. DWD 801.03 (17) and (19).

f. In s. DWD 801.05 (1) and (2), the numbering of par. “(a)” in each subsection should be removed. [s. 1.03 (1), Manual.] The subdivisions under sub. (1) (a) should be renumbered as paragraphs.

g. In s. DWD 801.05 (1) (a) 2. and 3., it appears that “private” should replace “legally-formed” in order to be consistent with the definition of “private organization” in s. DWD 801.03 (17). A “legally-formed organization” is not defined in the proposed rule.

h. In s. DWD 801.05 (4) (e), the agency might consider adding “, including the amount and source of any matching funds to be used in the project”. The proposed rule does not include a requirement for information about matching funds in the application process, although the summary of the proposed rule in the analysis states that the applicant is to provide information about proposed matching funds. The applicant’s summary of the budget may be an appropriate place to require information about proposed matching funds.

i. In addition to an applicant’s assurance of compliance required under s. DWD 801.05 (4) (h), the agency might consider adding a section on assurances and certifications in a manner similar to those requirements under s. DWD 820.11 or 830.06, in the areas that are appropriate to this program. For example, subsections in ss. DWD 820.11 and 830.06 address the signatory’s authority and the grantee’s “adequate and documented systems”, which are not addressed in the proposed rule.

j. The agency might consider moving the ranking procedure listed in s. DWD 801.05 (6) (d) to sub. (5), as par. (d) describes an evaluation criterion, and is more logically consistent with the criteria in sub. (5) than with the ranking procedures given in sub. (6). Also, in par. (d):

- (1) What are “staff ratings”? Does “staff ratings” refer to the department’s ranking procedure? The agency should clarify this.
- (2) The phrase “, but are not limited to,” should be deleted. [s. 1.01 (7) (d), Manual.]

k. Section DWD 801.06 should be restructured as follows:

- (1) After the title for sub. (1):
 - (a) Insert “Except as provided in sub. (2),”.
 - (b) The initial capital letter should be removed from “For”.
 - (c) A period should replace “, except that:”.
- (2) Subsection (1) (a) should be numbered as sub. (2) and should read: “(2) EXCEPTIONS. In reviewing a grant application, the department:”, and the beginning of each paragraph should be revised as follows:
 - (a) “May reject”

(b) “May negotiate”

(c) “May consider additional factors, including underserved populations....”
Also, in this paragraph, delete “, shall be justification for deviating from (1) above”.

(3) Subsections (2) to (5) should be numbered subs. (3) to (6).

(4) In sub. (3), the reference to “sub. (1) (a)” should be revised to “sub. (2) (a)”, if the section is revised in accordance with this comment.

l. The contents of s. DWD 801.07 (1) and (3) (b) might be more appropriately placed in s. DWD 801.09, which relates to the use of grant funds.

m. In addition to the grant administration provisions in s. DWD 801.07 (3), the agency could consider detailing access and retention requirements, in a manner similar to those details in s. DWD 830.08.

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

a. In the second paragraph of the section of the analysis that provides the summary of the proposed rule, it appears that either “the” or “its” should be deleted in the phrase “description of the its proposed training program”.

b. In the table of contents for ch. DWD 801, a period should be inserted at the end of each section title for ss. DWD 801.07 to 801.11.

c. Section DWD 801.01 could be more direct in its style, in a manner similar to s. DWD 820.01. For example, the authority and purpose could be phrased as follows: “This chapter is created to establish the rules that shall govern the administration and granting of funds for the training of unemployed and underemployed workers and incumbent employees in this state, as authorized under s. 106.27, Stats.”.

d. In s. DWD 801.03 (2), on the second line, “or implementation” should be inserted after “development”, and “, for the implementation of a workforce training program or for the development and implementation of a workforce training program” should be deleted.

e. In s. DWD 801.03 (16), it appears that “training program” should replace the first instance of “grant”.

f. In the Note after s. DWD 801.05 (1) (a) 4., “organizations” should replace “businesses”, and “Department’s” should replace “DWD”.

g. In ss. DWD 801.05 (5) and (6) and 801.06 (1), “evaluation committee” should replace each instance of “its designated evaluation committee”. The longer phrase is unnecessary, as an “evaluation committee” is defined in the proposed rule and allows the proposed rule to be more readable and to be phrased with more specificity. Also, to be more specific with the structure of the review process, the agency might consider providing a proposal review process similar to that given in s. DWD 830.04.

- h. In s. DWD 801.05 (5) (a), the following revisions should be made:
 - (1) The phrase “and, if applicable, the GPA” should be deleted, as any application information required by the GPA is already part of the application contents specified under sub. (4) (k).
 - (2) “The department shall deny any application that fails to meet all of the criteria” should replace the last two sentences of the paragraph. This reason for denial of an application is also specified in s. DWD 801.06 (1) (a), and is logically more consistent with that section. The agency might consider removing this denial language from s. DWD 801.05 (5) (a), as well as the reference to this section in s. DWD 801.06 (3).
- i. In s. DWD 801.06 (2), “submitting” should be inserted after “GPA for”.
- j. In s. DWD 801.07 (3) (a), it appears that “wages and compensation” should replace “salaries”, in order to be more specific.
- k. In s. DWD 801.07 (3) (b), “funds” should replace “finds”.
- l. In s. DWD 801.08, it is unclear who is providing the “match expenditures” and to whom this section applies. Does this section refer to grants made by the department only when matching funds are available, or does it refer to funds obtained by the grantee to match the grant? Also, in this section:
 - (1) Should sub. (1) include a reference to any matching funds offered by the grantee itself?
 - (2) Should sub. (4) include “software and equipment” in addition to the “instructional materials”, pursuant to the definition in s. DWD 801.03 (14)?
- m. In s. DWD 801.08 (5), under what circumstances are trainee wages, stipends, and fringe benefits considered a match expenditure?
- n. In s. DWD 801.09 (3), “a public or private organization may spend” should replace “may be spent”. Also, this subsection should specify whether the 5% limit is 5% of the total amount of the project (including matching funds), or 5% of the total amount of the grant, as those amounts could be different.
- o. In s. DWD 801.09 (4), should “instructional materials, software and equipment” replace “materials”, pursuant to the definition in s. DWD 801.03 (14)? Also, “the department” should replace “DWD”, and “also” should be deleted after “shall”.
- p. In s. DWD 801.11 (1), “audit and inspect its records and to” should be inserted after “shall authorize the department to”, in accordance with s. 106.27 (2g) (b), Stats.
- q. In s. DWD 801.11 (2), the acronym “BLS” should be written out. That term is not defined or used elsewhere in the proposed rule. [s. 1.01 (8), Manual.]

r. In s. DWD 801.11 (3) (f), it appears that a comma should be inserted after “underemployed”, and that “an” should be deleted before “incumbent”.