

185.7

ARTICLE 8

185.8

MISCELLANEOUS

185.9 Section 1. **FINANCIAL REVIEW OF GRANT AND BUSINESS SUBSIDY**
 185.10 **RECIPIENTS.**

185.11 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
 185.12 meanings given.

185.13 (b) "Grant" means a grant or business subsidy funded by an appropriation in this act.

185.14 (c) "Grantee" means a business entity as defined in Minnesota Statutes, section 5.001.

185.15 Subd. 2. **Financial information required; determination of ability to perform.** Before
 185.16 an agency awards a competitive, legislatively-named, single source, or sole source grant,
 185.17 the agency must assess the risk that a grantee cannot or would not perform the required
 185.18 duties. In making this assessment, the agency must review the following information:

185.19 (1) the grantee's history of performing duties similar to those required by the grant,
 185.20 whether the size of the grant requires the grantee to perform services at a significantly
 185.21 increased scale, and whether the size of the grant will require significant changes to the
 185.22 operation of the grantee's organization;

185.23 (2) for a grantee that is a nonprofit organization, the grantee's Form 990 or Form 990-EZ
 185.24 filed with the Internal Revenue Service in each of the prior three years. If the grantee has
 185.25 not been in existence long enough or is not required to file Form 990 or Form 990-EZ, the
 185.26 grantee must demonstrate to the grantor's satisfaction that the grantee is exempt and must
 185.27 instead submit the grantee's most recent board-reviewed financial statements and
 185.28 documentation of internal controls;

185.29 (3) for a for-profit business, three years of federal and state tax returns, current financial
 185.30 statements, certification that the business is not under bankruptcy proceedings, and disclosure
 185.31 of any liens on its assets. If a business has not been in business long enough to have three

THE FOLLOWING SECTION WAS PULLED OUT OF HOUSE ARTICLE 8.
 UES2934-2

177.8 Sec. 11. **FINANCIAL REVIEW OF NONPROFIT GRANT RECIPIENTS**
 177.9 **REQUIRED.**

177.10 Subdivision 1. **Financial review required.** (a) Before awarding a competitive,
 177.11 legislatively named, single-source, or sole-source grant to a nonprofit organization under
 177.12 this act, the grantor must require the applicant to submit financial information sufficient for
 177.13 the grantor to document and assess the applicant's current financial standing and management.
 177.14 Items of significant concern must be addressed with the applicant and resolved to the
 177.15 satisfaction of the grantor before a grant is awarded. The grantor must document the material
 177.16 requested and reviewed; whether the applicant had a significant operating deficit, a deficit
 177.17 in unrestricted net assets, or insufficient internal controls; whether and how the applicant
 177.18 resolved the grantor's concerns; and the grantor's final decision. This documentation must
 177.19 be maintained in the grantor's files.

177.20 (b) At a minimum, the grantor must require each applicant to provide the following
 177.21 information:

177.22 (1) the applicant's most recent Form 990, Form 990-EZ, or Form 990-N filed with the
 177.23 Internal Revenue Service. If the applicant has not been in existence long enough or is not
 177.24 required to file Form 990, Form 990-EZ, or Form 990-N, the applicant must demonstrate
 177.25 to the grantor that the applicant is exempt and must instead submit documentation of internal
 177.26 controls and the applicant's most recent financial statement prepared in accordance with
 177.27 generally accepted accounting principles and approved by the applicant's board of directors
 177.28 or trustees, or if there is no such board, by the applicant's managing group;

177.29 (2) evidence of registration and good standing with the secretary of state under Minnesota
 177.30 Statutes, chapter 317A, or other applicable law;

186.1 years of tax returns, the grantee must demonstrate to the grantor's satisfaction that the grantee
 186.2 has appropriate internal financial controls;

186.3 (4) evidence of registration and good standing with the secretary of state under Minnesota
 186.4 Statutes, chapter 317A, or other applicable law;

186.5 (5) if the grantee's total annual revenue exceeds \$750,000, the grantee's most recent
 186.6 financial audit performed by an independent third party in accordance with generally accepted
 186.7 accounting principles; and

186.8 (6) certification, provided by the grantee, that none of its principals have been convicted
 186.9 of a financial crime.

186.10 Subd. 3. **Additional measures for some grantees.** The agency may require additional
 186.11 information and must provide enhanced oversight for grants that have not previously received
 186.12 state or federal grants for similar amounts or similar duties and so have not yet demonstrated
 186.13 the ability to perform the duties required under the grant on the scale required.

186.14 Subd. 4. **Assistance from administration.** An agency without adequate resources or
 186.15 experience to perform obligations under this section may contract with the commissioner
 186.16 of administration to perform the agency's duties under this section.

186.17 Subd. 5. **Agency authority to not award grant.** If an agency determines that there is
 186.18 an appreciable risk that a grantee receiving a competitive, single source, or sole source grant
 186.19 cannot or would not perform the required duties under the grant agreement, the agency must
 186.20 notify the grantee and the commissioner of administration and give the grantee an opportunity
 186.21 to respond to the agency's concerns. If the grantee does not satisfy the agency's concerns
 186.22 within 45 days, the agency must not award the grant.

186.23 Subd. 6. **Legislatively-named grantees.** If an agency determines that there is an
 186.24 appreciable risk that a grantee receiving a legislatively-named grant cannot or would not
 186.25 perform the required duties under the grant agreement, the agency must notify the grantee,
 186.26 the commissioner of administration, and the chair and ranking minority members of Ways
 186.27 and Means Committee in the house of representatives, the chairs and ranking minority
 186.28 members of the Finance Committee in the senate, and the chairs and ranking minority
 186.29 members of the committees in the house of representatives and the senate with primary
 186.30 jurisdiction over the bill in which the money for the grant was appropriated. The agency
 186.31 must give the grantee an opportunity to respond to the agency's concerns. If the grantee
 186.32 does not satisfy the agency's concerns within 45 days, the agency must delay award of the
 186.33 grant until adjournment of the next regular or special legislative session.

187.1 Subd. 7. **Subgrants.** If a grantee will disburse the money received from the grant to
 187.2 other organizations to perform duties required under the grant agreement, the agency must
 187.3 be a party to agreements between the grantee and a subgrantee. Before entering agreements
 187.4 for subgrants, the agency must perform the financial review required under this section with
 187.5 respect to the subgrantees.

177.31 (3) unless exempt under Minnesota Statutes, section 309.515, evidence of registration
 177.32 and good standing with the attorney general under Minnesota Statutes, chapter 309; and

178.1 (4) if required under Minnesota Statutes, section 309.53, subdivision 3, the applicant's
 178.2 most recent audited financial statement prepared in accordance with generally accepted
 178.3 accounting principles.

178.4 Subd. 2. **Authority to postpone or forgo.** Notwithstanding any contrary provision in
 178.5 this act, a grantor that identifies an area of significant concern regarding the financial standing
 178.6 or management of a legislatively named applicant may postpone or forgo awarding the
 178.7 grant.

187.6 Subd. 8. **Effect.** The requirements of this section are in addition to other requirements
187.7 imposed by law, the commissioner of administration under Minnesota Statutes, sections
187.8 16B.97 to 16B.98, or agency grant policy.

178.8 Subd. 3. **Authority to award subject to additional assistance and oversight.** A grantor
178.9 that identifies an area of significant concern regarding an applicant's financial standing or
178.10 management may award a grant to the applicant if the grantor provides or the grantee
178.11 otherwise obtains additional technical assistance, as needed, and the grantor imposes
178.12 additional requirements in the grant agreement. Additional requirements may include but
178.13 are not limited to enhanced monitoring, additional reporting, or other reasonable requirements
178.14 imposed by the grantor to protect the interests of the state.

178.15 Subd. 4. **Relation to other law and policy.** The requirements in this section are in
178.16 addition to any other requirements imposed by law, the commissioner of administration
178.17 under Minnesota Statutes, sections 16B.97 and 16B.98, or agency policy.