

**CHAPTER 4310**  
**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT**  
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4310.8100 [Repealed, 13 SR 2933]

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#### OUTDOOR RECREATION GRANTS

#### 4310.8105 DEFINITIONS.

Subpart 1. **Scope.** The following terms used in parts 4310.8105 to 4310.8160 have the meanings given them.

Subp. 2. **Community development application.** "Community development application" means the official consolidated application form as developed by the department to be used to apply for funding assistance from various community assistance programs administered by the Community Development Division.

Subp. 3. **Community Development Division.** "Community Development Division" means the Community Development Division of the Department of Employment and Economic Development.

Subp. 4. **Eligible applicant.** "Eligible applicant" means local units of government that are eligible to apply for an outdoor recreation grant.

Subp. 5. **LAWCON.** "LAWCON" means the program established by the act of Congress entitled "The Land and Water Conservation Fund Act of 1965," as amended, Statutes at Large, volume 87, page 897, which provides federal grants to Minnesota for the acquisition and development of outdoor recreation projects.

Subp. 6. **Local units of government.** "Local units of government" means counties, cities, townships, and Indian tribes and bands recognized by the federal government.

Subp. 7. **NPS.** "NPS" means the National Park Service of the United States Department of the Interior.

Subp. 8. **NPS guidelines.** "NPS guidelines" means those guidelines established by the National Park Service and contained in the "Land and Water Conservation Fund Grants Manual," prepared by the National Park Service. This manual is incorporated by reference, is available through the Minitex interlibrary loan system, and is subject to frequent change.

Subp. 9. **Outdoor recreation grant.** "Outdoor recreation grant" means a specific sum of money made available by the federal government or Minnesota to an eligible applicant for the execution of outdoor recreation projects.

Subp. 10. **Project.** "Project" means a planned undertaking for outdoor recreation, proposed by an eligible applicant, having fixed beginning and ending dates and consisting of either or both of the following two types:

A. "acquisition project" means the acquisition of real property or an interest and rights to the property for a well-defined outdoor recreation area and purpose; and

B. "development project" means the development of structures, utilities, or facilities necessary for the purpose of outdoor recreation on publicly-owned or controlled land.

Subp. 11. **Project agreement.** "Project agreement" means the contract executed between the NPS and the state, or the state and the eligible applicant, that sets forth the mutual obligations with regard to a portion or all of a specific project.

Subp. 12. **SCORP.** "SCORP" means the Minnesota Statewide Comprehensive Outdoor Recreation Plan prepared by the Minnesota Department of Natural Resources as required by the NPS as a prerequisite to distribution of LAWCON funds. This plan is incorporated by reference, is available through the Minitex interlibrary loan system, and is subject to change every five years.

**Statutory Authority:** *MS s 86.71; 116J.035; 116J.401; 116J.406*

**History:** *13 SR 2933; L 2003 1Sp4 s 1*

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**4310.8110** [Repealed, 13 SR 2933]

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**4310.8120 PURPOSE.**

Parts 4310.8105 to 4310.8300 provide criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for outdoor recreation grants.

**Statutory Authority:** *MS s 86.71; 116J.035; 116J.401;116J.406*

**History:** *13 SR 2933*

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**4310.8130 APPLICATION PROCESS.**

Subpart 1. **Eligibility.** An eligible local unit of government may apply for an outdoor recreation grant. To receive a grant, an eligible applicant must satisfy the requirements in parts 4310.8105 to 4310.8160 and related statutory requirements.

Subp. 2. **Notice.** Annually, the Community Development Division shall provide notice concerning the application process for outdoor recreation grants to the following:

- A. mayors in care of the clerks of all cities in Minnesota;
- B. county board chairs in care of the auditors of all counties in Minnesota;
- C. chairs of county planning commissions and city planning commissions of all cities over 5,000 population according to the last federal decennial census in Minnesota;
- D. chairs of county park and recreation commissions and city park and recreation commissions of all cities over 5,000 population according to the last federal decennial census in Minnesota;
- E. chairs in care of the executive directors of regional development commissions;
- F. chairs of each county's township association;
- G. chairs of tribal councils of recognized Indian tribal governments;
- H. statewide organizations representing Minnesota local governments;
- I. persons requesting notice; and
- J. upon request, to the Minnesota state legislature.

Subp. 2a. **Application content and submission.** Applications may be submitted year-round to the Community Development Division and on the Community Development Division's community development application.

A completed community development application must include:

- A. needs narrative summarizing the need for the proposed outdoor recreation project;
- B. project summary outlining the facilities and land acquisition to be completed and the scope of the project;
- C. activities and budget detailing the specific estimated costs associated with each proposed acquisition or development activity;
- D. assurances necessary to comply with federal or state requirements as a prerequisite to receiving state or federal funding;



E. a resolution from the local unit of government approving the submission of the application and authorizing execution of the grant agreement in accordance with the requirements of the Community Development Division, if funds are made available; and

F. supporting materials that are designed to verify or support information presented in items A to E.

The Community Development Division may require additional information from the applicant if it is necessary to clarify and evaluate the application.

Subp. 3. [Repealed, 13 SR 2933]

Subp. 3a. **Evaluation criteria.** Funding of outdoor recreation projects, included on completed community development applications, shall be officially determined during an annual competitive review and ranking period. The Community Development Division may request applicants who have submitted completed applications with outdoor recreation projects, before the annual competitive review and ranking period, to submit additional materials and support documentation necessary to complete the evaluation and ranking.

Outdoor recreation projects, included on completed community development applications, shall be officially evaluated, scored, and ranked in accordance with the general criteria in subpart 4a, acquisition priorities in subpart 5a, and development priorities in subpart 6a.

Subp. 4. [Repealed, 13 SR 2933]

Subp. 4a. **General criteria.** Applications that meet one or more of the following criteria shall receive priority over similar projects that do not:

A. projects involving outstanding irreplaceable resources or features of statewide or regional significance that are in danger of commercial (nonrecreational) development, subdivision, or other use that may be incompatible with outdoor recreation uses;

B. projects that have received a prior outdoor recreation grant for a preceding phase of the proposed project and that have been satisfactorily managed;

C. projects that are designed with a sensitivity toward the physical limitations and natural characteristics of the site; recognize and complement existing land forms and recreation facilities; provide for ease of maintenance and operation of the site; do not have major environmental intrusions that are detrimental to the intended use of the property; make good use of available space without crowding; and include facilities that are designed in accordance with generally-accepted engineering and architectural standards;

D. projects for which the applicant has submitted a statement documenting a financial commitment to continued operations and maintenance of the proposed facilities;

E. projects that are consistent with the outdoor recreation needs and priorities related to local governments as identified in SCORP; and

F. projects for which the applicant can demonstrate a need for priority consideration for state financial assistance.

Subp. 5. [Repealed, 13 SR 2933]

Subp. 5a. **Acquisition priorities.** The following criteria shall be used to evaluate applications for acquisition projects and to determine priorities for projects:

A. acquisition of project sites having existing or potential natural, scientific, cultural, historical, educational, or recreational values that would be made available for public enjoyment;

B. acquisition of project sites that would protect or enhance aesthetics, land and water quality, or the recreational use of existing outdoor recreation facilities; and

C. acquisition of project sites that address the outdoor recreation land acquisition needs and priorities related to local governments as identified in SCORP.

Subp. 6. [Repealed, 13 SR 2933]

Subp. 6a. **Development priorities.** The following criteria shall be used to evaluate applications for outdoor recreation development projects and to determine priorities for projects:

A. projects designed to protect and enhance land and water quality of the site consistent with the estimated number of its potential users and the proposed outdoor recreation activities;

B. projects designed to be readily accessible to a wide range of potential users, including users with disabilities;

C. projects designed to minimize any potential risk to the health and safety of users; and

D. projects designed to provide to the general public a wide range of outdoor recreation opportunities that are related to the needs and priorities established in SCORP.

Subp. 7. [Repealed, 13 SR 2933]

Subp. 7a. **Competitive review and ranking period.** As part of the competitive review and ranking period, Community Development Division staff shall conduct an on-site inspection of each project. After completion of the on-site inspections, each project shall be reviewed in accordance with the evaluation criteria contained in subpart 3a, and a priority ranking shall be established for each applicant based on the evaluation criteria. All applicants shall be notified by the Community Development Division about the disposition of their project after the competitive review and ranking period has been completed and a funding determination has been made.

Grants shall be allocated to applicants in descending order or priority, as determined by the ranking, until all available grant funds are depleted.

The highest ranked projects will be eligible for and shall be awarded federal LAWCON funds. The Community Development Division shall determine which projects will be eligible for state funds.

Subp. 8. [Repealed, 13 SR 2933]

Subp. 8a. **NPS approval and notice of LAWCON grant award.** For any eligible project for which the Community Development Division has determined that federal LAWCON funds will be awarded, the Community Development Division shall request NPS approval of a LAWCON grant for the recommended project. The Community Development Division shall notify the applicant that the project has been recommended for a grant and will be submitted to the NPS for final approval. The Community Development Division shall also notify the applicant of the action taken by the NPS.

Subp. 9. [Repealed, 13 SR 2933]

Subp. 9a. **Notification of state grant award.** For any eligible project for which the Community Development Division has determined that state funds will be awarded, the Community Development Division shall notify the applicant that the project has received a grant award. If an eligible project is not

recommended to receive a grant award, the Community Development Division shall notify the applicant that the project did not rank highly enough for funding.

Subp. 10. [Repealed, 13 SR 2933]

Subp. 11. [Repealed, 13 SR 2933]

Subp. 12. [Repealed, 13 SR 2933]

**Statutory Authority:** *MS s 86.71; 116J.035; 116J.401; 116J.406*

**History:** *13 SR 2933; L 2005 c 56 s 2*

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#### **4310.8140 PROJECT AGREEMENT.**

Upon approval by the NPS for LAWCON-funded projects and approval by the Community Development Division for state-funded projects, the Community Development Division shall execute a project agreement with the applicant and the applicant shall comply with the terms of the project agreement.

**Statutory Authority:** *MS s 86.71; 116J.035; 116J.401; 116J.406*

**History:** *13 SR 2933*

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#### **4310.8150 DISBURSEMENT OF GRANT.**

The applicant shall initially pay for the project costs as specified in the project agreement. The applicant shall submit to the Community Development Division a payment request for reimbursement of costs incurred in the completion of the project. In all cases, not more than four payment requests shall be submitted for the life of the project. Upon receipt of a payment request containing the documentation required in the project agreement, the Community Development Division shall audit the payment request documentation to determine the eligibility and propriety of the costs incurred by the applicant.

For projects funded with federal LAWCON funds, if the costs are eligible and properly documented, the Community Development Division shall request reimbursement from NPS of the federal share of the eligible costs represented by the applicant's payment request. Upon receipt of the LAWCON reimbursement for that payment request, the Community Development Division shall issue payment of the federal funds to the applicant.

For projects funded with state grant funds, the Community Development Division shall reimburse the applicant for the eligible costs represented by each payment request, provided that the payment request documentation submitted contains the documentation required in the project agreement.

The final payment shall reflect any cost adjustments due to project changes. The project site shall be subject to an inspection by state and federal personnel. All costs incurred by the applicant may be subject to verification by an independent federal or state audit.

**Statutory Authority:** *MS s 86.71; 116J.035; 116J.401; 116J.406*

**History:** *13 SR 2933*

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**4310.8160 AMENDMENTS.**

A request for an amendment in the project scope, costs, or time period may be submitted to the Community Development Division prior to project termination. If the request is eligible for a LAWCON amendment and the Community Development Division considers the amendment request to be reasonable and justified and it does not substantially affect the project eligibility under part 4310.8130, it may request NPS to approve the amendment.

**Statutory Authority:** *MS s 86.71; 116J.035; 116J.401; 116J.406*

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## REGIONAL DEVELOPMENT COMMISSIONS

### 4310.9500 DEFINITIONS.

Subpart 1. **Scope.** As used in these parts, the following terms have the meanings given them.

Subp. 2. **Agency.** "Agency" means the State Planning Agency.

Subp. 3. **Base grants.** "Base grants" means a portion of the preliminary funding allocation to an RDC that is earmarked as an equal minimum level of financial assistance for each RDC.

Subp. 4. **Comprehensive plan.** "Comprehensive plan" means a regional comprehensive development plan that RDCs are required to prepare and adopt under Minnesota Statutes, section 462.39, subdivision 3.

Subp. 5. **Consultation process.** "Consultation process" means a meeting during which the agency consults with the RDC for the purpose of obtaining input on the allocation of state financial assistance to RDCs.

Subp. 6. **Final work program.** "Final work program" means a work program that has been reviewed by the agency and submitted and adopted by the RDC under the provisions of these parts.

Subp. 7. **Fiscal year.** "Fiscal year" means the operational program year of the RDC.

Subp. 8. **Grant agreement.** "Grant agreement" means a signed written agreement between the state acting by and through the agency, and the RDC that specifies the terms of agency's allocation of state financial assistance to the RDC.

Subp. 9. **Overall program design; OPD.** "Overall program design (OPD)" means a work program that also includes goals, issues, problems, and opportunities that will be addressed over a three-year period. Every fourth year, beginning in fiscal year 1982, the OPD shall be substituted for the annual work program.

Subp. 10. **Planning subcategories.** "Planning subcategories" means a specific planning or management activity that subdivides the program's categories of an RDC's work program into specific objectives, work elements, and evaluation criteria.

Subp. 11. **Preliminary funding allocation.** "Preliminary funding allocation" means a forecast of the potential amount of state financial assistance available to each RDC for the ensuing fiscal year.

Subp. 12. **Preliminary work program.** "Preliminary work program" means a draft work program prepared and submitted by the RDCs to the agency under the provisions of these parts.

Subp. 13. **Program categories.** "Program categories" means a work program classification for a general planning or management activity of a RDC.

Subp. 14. **Progress report.** "Progress report" means a written report that is submitted by the RDC to the agency on a quarterly basis which indicates the progress which the RDC is making in completing its work program.

Subp. 15. **Regional development commission; RDC.** "Regional development commission (RDC)" means any commission organized under the Regional Development Act.

Subp. 16. **Regional Development Act.** "Regional Development Act" means Minnesota Statutes, sections 462.381 to 462.396.

Subp. 17. **Review session.** "Review session" means a meeting between the RDC and the agency for the purpose of identifying problems with the RDC's final work program if the work program is found to be inconsistent with the requirements set forth under these parts.

Subp. 18. **State financial assistance.** "State financial assistance" means grants made to RDCs, under Minnesota Statutes, section 462.396, subdivision 1, from appropriations made available by the legislature.

Subp. 19. **Work program.** "Work program" means an annual written plan of all of an RDC's proposed work activities for the ensuing fiscal year, including but not limited to those activities supported by state financial assistance.

Subp. 20. **Technical assistance.** "Technical assistance" means any planning or management assistance that an RDC renders to a local government.

**Statutory Authority:** *MS s 116K.07*

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**4310.9510 AUTHORITY AND PURPOSE.**

Subpart 1. **Authority.** The rules contained herein are prescribed by the Office of Local and Urban Affairs, pursuant to authority granted in Minnesota Statutes 1978, sections 4.13, 4.17, and 462.396, and Executive Order No. 79-33.

Subp. 2. **Purpose.** It is the purpose of the RDC act to promote comprehensive planning and to facilitate intergovernmental cooperation. In accordance with this policy, these rules are set forth to provide criteria and procedures for providing state assistance to regional development commissions.

**Statutory Authority:** *MS s 116K.07*

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**4310.9520 APPLICATION PROCESS.**

Subpart 1. **Consultation process.** No later than 120 days prior to the start of the fiscal year, RDCs shall be invited to consult with the agency in determining the amount of preliminary funding allocations of state financial assistance to RDCs.

Based on this consultation with the RDCs, and in consideration of the amount of funds provided by the legislature for such purposes, the agency shall announce to each RDC a preliminary funding allocation for the ensuing fiscal year.

Factors to be considered by the agency in determining the preliminary funding allocations shall include: base grants; the population of the region; and consideration of an amount of funds to be reserved for future funding of RDC work programs that are amended under this subpart.

The preliminary funding allocation to each RDC shall not be considered to be the final amount of funds awarded to each RDC.

Subp. 2. **Submission of preliminary work program.** No later than 30 days after the consultation process each RDC shall submit to the agency a preliminary work program that shall be consistent with the content requirements prescribed under part 4310.9530.

Every fourth year, the RDC shall submit an overall program design in place of the preliminary work program. The OPD shall be consistent with the content requirements prescribed under this part and part 4310.9530. The procedures set forth below for approving RDC work programs shall apply equally to OPDs.

Subp. 3. **The agency review of preliminary work programs.** No later than 30 days after receipt of the RDC preliminary work programs, the agency shall transmit written comments to each RDC based on its review of the RDC's preliminary work program.

The agency review shall include an examination of the RDC's compliance with the content requirements set forth under part 4310.9530; and an evaluation of the scope and content of the preliminary work program in respect to the proposed work program budget.

The agency shall, as it deems necessary, invite other state, federal, regional, or local agencies that provide assistance to RDCs to participate in its review of the RDC work programs.

Subp. 4. **Submission of final work program.** No later than 45 days after the agency transmits its preliminary work program review comments to the RDCs, each RDC shall submit to the agency a final work program that has been adopted by the RDC under procedures set forth by the RDC. The final work program shall contain the following:

- A. the content described under part 4310.9530;
- B. responses to the agency's comments on the RDC's preliminary work program; and
- C. inclusion of the following attachments:
  - (1) a statement that no person will be discriminated against on the grounds of race, color, sex, religion, disability, or national origin;
  - (2) a statement on how the RDC will meet the citizen participation requirements of the Regional Development Act; and
  - (3) a statement that describes how the RDC will coordinate its work elements with related activities performed by other agencies, other levels of government, or the private sector.

Subp. 5. **Acceptance of final work programs.** If the RDC's final work program is found to be consistent with the requirements set forth under these rules, the agency shall notify the RDC that its final work program is acceptable and that a grant agreement between the RDC and the agency shall be entered into as described under part 4310.9540, subpart 2.

If an RDC's final work program is found to be inconsistent with the requirements set forth under these parts, the agency shall schedule a review session to resolve the problems identified. The review session shall be attended by RDC representatives, the agency representatives, and representatives of any other organizations that the RDC and the agency mutually determine should be present to ensure complete input and understanding of the specific problems identified. Following the review session, the agency shall provide the RDC with a written statement of the findings of the review session and changes (if any) which the RDC must make in its final work program in order to have an acceptable work program. Upon receipt by the agency of the required changes to the RDC's work program, the agency shall notify the RDC that its work program is acceptable and a grant agreement shall be executed as described under part 4310.9540, subpart 2. If the RDC fails to change its work program in accordance with the agency's requirements, the work program shall not be accepted and a grant agreement shall not be executed.

Subp. 6. **Amendments to acceptable work program.** A final work program may be amended any time by the RDC after it has been accepted by the agency, provided that the amendment is accepted by the agency.

An amendment to an RDC work program shall be accepted by the agency if:

- A. the RDC submits to the agency a detailed description of the proposed amendments in the manner prescribed under part 4310.9530; or
- B. the proposed amendments are determined by the agency to be consistent with the requirements set forth under subpart 5.

An amendment to an RDC work program shall not be accepted by the agency if the proposed amendment is inconsistent with the requirements set forth under subpart 5.

Within ten days of receipt of a proposed amendment, the agency shall notify the RDC in writing whether the proposed amendment is accepted.

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**4310.9530 CONTENT OF WORK PROGRAM AND OPD.**

Subpart 1. **Final work order.** In order to be accepted a final work program shall include:

A. a title and reference number for program categories (for example, 100-administration) and a title and reference number for program subcategories (for example, 110-personnel management);

B. a description of the objective of each program subcategory, that is, a specific statement of what is to be accomplished by the RDC in relation to its identified policies, needs, and/or problems; whenever possible the objective shall be stated in terms of outcomes or results which are quantifiable and measurable over a one-year period of time;

C. a description of the work elements for each program subcategory that are specific statements of the work activity to be undertaken in order to achieve an objective; whenever possible, the work elements shall contain an identification of the products that will result from the work element;

D. a description of the evaluation criteria for each program subcategory that shall consist of:

- (1) a performance indicator that provides criteria to measure the degree of performance for each work element; and
- (2) an impact statement which serves to measure the overall effectiveness or result of a program subcategory;

E. a program subcategory description of the process and timetable that the RDC is using to carry out its comprehensive planning responsibilities as enumerated under Minnesota Statutes, section 462.39, subdivision 3;

F. a program subcategory description of the RDC's technical assistance program for its local governments;

G. a program subcategory description of the RDC's plans for implementing a self-evaluation program; and

H. a budget that indicates all proposed federal, state, and local revenue to be utilized by the RDC in carrying out the objectives of the work program. State financial assistance to RDCs, as authorized by Minnesota Statutes, section 462.396, shall be identified as to its specific use by the RDC.

Subp. 2. **OPDs.** In order to be accepted an OPD shall include:

A. a description of a work program for the ensuing fiscal year which is consistent with the work program requirements set forth in these parts;

B. a description of three-year goals for each program category of the work program;

C. a description of the issues, problems, and opportunities related to achieving each of the program category goals;

D. a schedule for completing a self-evaluation process; this schedule for the self-evaluation process shall include activities listed in subitems (1) to (7), unless the agency and the RDC mutually agree on an alternative self-evaluation process that would achieve these same objectives:

- (1) the establishment of an internal evaluation committee;
- (2) the formulation of self-evaluation objectives;
- (3) the determination of RDC constituency;

- (4) the development of self-evaluation methodology;
- (5) the formulation of an implementation schedule;
- (6) the implementation of the self-evaluation methodology; and
- (7) the utilization of self-evaluation findings; and

E. a schedule for addressing the comprehensive planning requirements enumerated under Minnesota Statutes, section 462.39, subdivision 3.

Subp. 3. **Modification.** The content of the work program or OPD as specified in subparts 1 and 2 shall be modified by the agency as may be necessary to accommodate the requirements of other state and federal agencies that provide assistance to RDCs.

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#### **4310.9540 PROCEDURES FOR ADMINISTERING STATE FINANCIAL ASSISTANCE TO RDC'S.**

Subpart 1. **Grant allocations.** Grant awards to RDCs shall be based on the following criteria:

- A. The agency's acceptance of the RDC's final work program;
- B. The agency's review of RDC performance relative to past RDC work programs;
- C. RDC use of local financial assistance to help support program activities; and
- D. The agency's approval of an amended RDC work program or OPD as authorized under part 4310.9520, subpart 6, provided that such funds were reserved for that purpose under part 4310.9520, subpart 1.

E. Each year during the consultation process, each RDC may advise the agency on the relative importance of the funding criteria that the agency will use to determine the amount of grants to RDCs.

Subp. 2. **Grant disbursements.** The agency shall make grant allocations and disburse such grant allocations to RDCs according to the following procedures:

A. A grant agreement shall be entered into between the RDC and the SPA once a final work program has been determined to be acceptable by the agency, provided that funds have been appropriated for such purposes.

- B. The grant agreement shall specify:
- (1) the amount of financial assistance to be awarded to the RDC in anticipation of the RDC's completion of the work program activities;
  - (2) the consideration due to the agency if the RDC does not complete the work program in an acceptable manner;
  - (3) the manner and process of making grant allocation payments to the RDC; and
  - (4) all RDC financial reporting, accounting, and auditing requirements necessary for the administration of state financial assistance to RDCs.

C. Nothing contained in these parts shall prohibit other state or federal agencies from providing grants to RDCs, nor shall these parts prevent other state or federal agencies from entering into an agreement with the agency for the purpose of integrating grant agreements to RDCs.

Subp. 3. **Evaluation.** The agency shall monitor each RDC's performance under its grant agreement according to the following procedures:

A. RDCs shall submit a quarterly progress report to the agency indicating the performance of work elements scheduled for undertaking during that quarterly period. The agency shall review the quarterly progress reports in respect to the final work program.

B. If problems are identified as a result of the agency's review of quarterly progress reports, the agency shall, as staff resources allow, conduct an on-site program evaluation with each RDC during the third or fourth quarter of each fiscal year.

C. Each RDC shall submit to the agency a completion report at the end of the fiscal year. This report shall indicate which work elements were not completed and which objectives were and were not achieved. For each work element and objective not successfully completed, the RDC shall provide an explanation of such as well as an indication of the amount of time needed to complete the remaining activity.

D. No sooner than 30 days after the completion of the fiscal year, the agency shall determine, based on its review of the RDC completion report, whether or not the work program has been completed in an acceptable manner and whether or not the grant agreement between the agency and the RDC has been fulfilled.

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