

**IOWA DEPARTMENT
OF EDUCATION
(Cite as 25 D.o.E. App. Dec. 171)**

In re Appeal from Denial of Grant

Ames Community School District,	:	DECISION
Petitioner.	:	[Admin. Doc. 4696]

At issue in this appeal is the decision of the Iowa Department of Education not to award Petitioner ["Ames"] with a statewide voluntary preschool grant ["SVPP"] for the 2009-2010 school year.

This is the third of four years of competitive grant funding for Iowa's Voluntary Statewide Preschool Program, codified in Iowa Code chapter 256C. A total of 125 applications were filed by school districts this year, and 49 SVPP grants were awarded. Ames was not among the applicants funded, and filed a timely appeal pursuant to 281— Iowa Administrative Code 7.5.

Additional undisputed relevant facts include the following:

1. The maximum number of points that an application could receive was 552; the Ames application had a total score of 480 points.
2. The score of 480 was the 17th highest total score among this year's applicants. Thus, 34 applications with fewer points than 480 were awarded SVPP grants.
3. Twenty (20) teams of three readers/scorers read from five to seven of the 124 applications. Ames was in Team 15. Team 15 was the highest scoring team.

The primary contention of Ames is that this was not a competitive grant as the Department represented it to be. Thus, Ames argues that the decision not to fund its application was conducted outside of statutory authority in that it was "based on some unidentified criteria not equally applied to all applicants."¹

The Department designed and implemented a grant reading process based upon transparency, the use of a peer review process, and the tenets of rule governed decision making. The Department strove also to honor the legislative intent, expressed in Iowa Code section 256C.6 as follows:

¹ Rule 7.5 states that appeals of grant denials must be based on a contention that "the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members." Ames presents a justiciable appeal.

[I]f the number of requests from school districts for initial participation in the preschool program exceeds the funding made available for the preschool program, the department shall utilize all of the following selection criteria in selecting the school districts that will be approved to participate in the preschool program:

- a. Priority shall be given to school districts that do not have existing preschool programming within the school district boundaries.
- b. Priority shall be given to school districts that have a high percentage of children in poverty and such children shall receive first priority for the programs.
- c. Consideration shall be given to the size of school districts in large, medium, and small categories in order for there to be equitable statewide distribution of preschool program services.
- d. Consideration shall be given to school districts with established, high-quality, community partnerships for the delivery of preschool programming that are seeking to expand access.

Transparent process

The application and technical assistance guidance were posted on the IDE Website with adequate time for districts to respond. The application included the scoring rubric that reading teams would use to score and rank the applications. Many competitive grants do not publish the scoring rubric used by the readers but only provide priorities, categories, and total scores to guide applicants in developing their proposal. This Department made every effort to provide a transparent competitive grant process by providing this detailed information.

Peer review process

The grant reading process was based upon the strength of the peer review process. Readers were recruited from a variety of agencies providing early childhood services to children and families or professional development and training. The agencies included area education agencies (AEAs), Child Care Resource and Referral, the Iowa Department of Human Services, Head Start, Community Empowerment, and school districts. Teams were recruited and structured to encompass a depth of expertise and experience in early childhood education. All team leaders were Department or AEA consultants with a degree in early childhood education and a teaching license. Teams received training regarding the intent of the law and the scoring process using the published scoring rubric.

The Department implemented several steps in an effort to provide a transparent competitive grant process within the statutory requirements of Iowa Code 256C. The training process instructed teams to rank order the applications read based on the total score. The process of ranking is grounded in research and levels the variance between reading teams to address inter-rater reliability, therefore a cut score was not established. The Department conducted an analysis of the range of scores awarded by the reading teams.

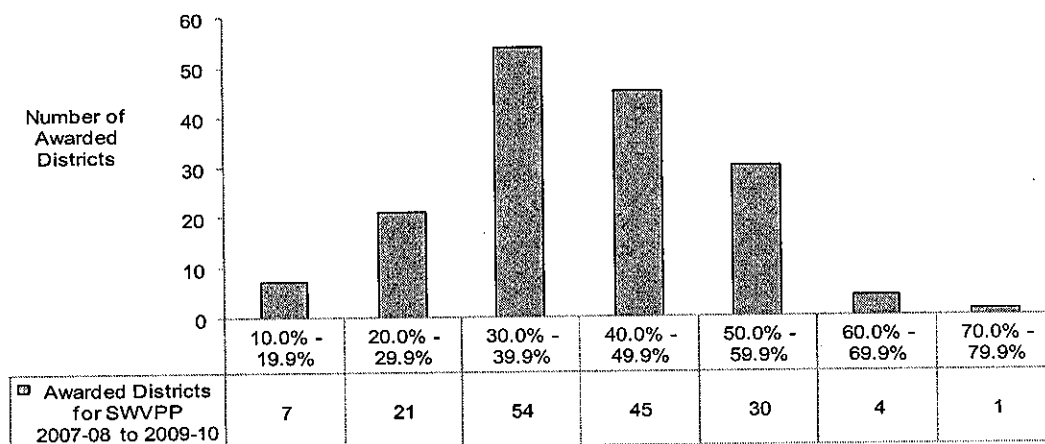
Rule governed decisions

All applications ranked first and second within their teams were awarded. Following those awards, funds remained available but not in sufficient amounts to allocate funding for all of the districts ranked third. In keeping with the legislative priority to serve children in high poverty areas, all districts ranked third were placed in order of percentage of poverty (based on free and reduced price meal eligibility in grades 1-6) from highest to lowest. Awards then were given to districts that ranked third from the highest to lowest poverty level until all funds were allocated.

The application and reading process were designed to accommodate the large number of applications received by the Department on an annual basis. The team reading process has been consistent during the three years in addressing the priorities and considerations in the law and has allowed the Department to fund as many districts as the annual allocation allows. The scoring rubric, rank, and final decision making process addressed the priorities and considerations in Iowa Code 256C. One of the selection criteria explicitly stated in Iowa Code 256C is the priority to fund districts that do not have preexisting preschool programs. Of the 125 applications received this year only two districts did not have pre-existing preschools and those districts were awarded.

Another selection criterion was to award districts that have a high percentage of children in poverty. The Department addressed districts in poverty in the application scoring rubric (this category alone accounted for 96 points of the 552 available) and in the final decisionmaking process. Figure 1 shows the history of high percentages of poverty in awarded districts.

Figure 1. Statewide Voluntary Preschool Program awarded districts their distribution of poverty.



The final decision making process included consideration regarding the size of the district. The Department awarded a representative portion of small, medium, and large districts. Table 1 shows the size distribution of this year's awarded districts as compared to all districts in Iowa.

Table 1. Awarded district size and state district size

Size of District (K-12 enrollment)	Size Distribution of Grantees for 2009-10 School Year		Size Distribution of All 362 Iowa School Districts	
	Number Of Districts	Expressed As a Percent	Number of Districts	Expressed as a Percent
Small (< 400)	12	24.5%	90	24.90%
Medium (400 – 2499)	33	67.3%	240	66.30%
Large (\geq 2500)	4	8.2%	32	8.80%

Competitive grant

The essence of this appeal by Ames is the contention that this is not truly a competitive grant, and that an individual district's likelihood of being awarded a SVPP grant is more dependent on which team read its application. Ames believes that "competitive" means that a cut line of a certain number of points be established, and all applicants above the cut line be funded. That argument does not capture the meaning of a competitive grant.

The Department administers a number of grants, some competitive and some not. A non-competitive grant is one where ALL eligible applicants are awarded funds. Examples include Title I, ARRA, and the Iowa-Microsoft class action settlement. Any district that fits certain parameters for an award under any of those programs will be funded.

On the other hand, many grants do not have funds sufficient to award to all eligible applicants, and the term "competitive grant" thus is used to distinguish these programs from non-competitive grants. Grants that fall into the competitive category represent a multitude of topics and criteria, and drawing cut lines is attractive only for its simplicity. To ensure in the SVPP grants that the awardees would represent all sizes of districts in all geographic areas of the state, while paying attention to the legislative priority of serving children in high poverty district, the Department chose not to establish a cut line.

As for Ames' argument that if its application had been assigned to any one of 17 other teams its score of 480 points would have ranked it first or second in those teams, that argument assumes that the 17 other teams would have given Ames a total score of 480 points. One can only speculate as to how the application from Ames would have fared under the care of any team other than Team 15. Team 15 uniformly scored its applications higher than any other team. That certainly does not mean that other teams would agree with Team 15's conclusions.

Ames acknowledges that the readers used by the Department were appropriately trained and that the scoring rubric was clear and detailed. Thus, Ames is skeptical that the teams of readers could differ on points conferred. But reasonable people can disagree. Where funding is inadequate, criteria must be implemented. Where numbers of applicants are large, teams of readers must be utilized. That does not mean that the process used by the Department in awarding SVPP grants was arbitrary or

unreasonable. To the contrary, the process represented the Department's good faith efforts to implement the statewide voluntary preschool grant program with fidelity to the Legislature's intent.

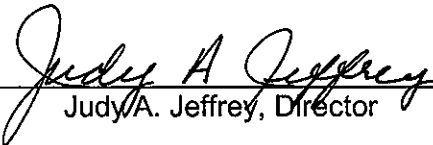
DECISION

For the foregoing reasons, the appeal herein is **denied**. The Ames district is encouraged to re-apply for funding the fourth year of this grant opportunity. As the IDE moves forward in this process over the first three years most of the districts with higher poverty have been awarded. If you have any additional questions please contact Laurabelle Sherman-Proehl (515/242-6018), Chief of our Bureau of Early Childhood Services.

This decision is final agency action from which the Appellant may file a petition for judicial review pursuant to Iowa Code section 17A.19.

07/28/09

Date



Judy A. Jeffrey, Director