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Details:

(FORM UPDATED: 07/12/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Agriculture (AC-Ag)

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
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- Public Hearings ... **PH**
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### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                      (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



State of Wisconsin  
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection  
Rod Nilsestuen, Secretary

**DATE:** June 27, 2008

**TO:** The Honorable Fred Risser  
President, Wisconsin State Senate  
Room 220 South  
State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882

The Honorable Michael Huebsch  
Speaker, Wisconsin State Assembly  
Room 211 West  
State Capitol  
P.O. Box 8952  
Madison, WI 53708

**FROM:** Rodney J. Nilsestuen, Secretary  
Department of Agriculture, Trade and Consumer Protection

*Randy Ranli*

**SUBJECT: "Buy Local" Grant Program; Final Draft Rule**

The Department of Agriculture, Trade and Consumer Protection ("DATCP") is transmitting this rule for legislative committee review, as provided in s. 227.19(2) and (3), Stats. DATCP will publish notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19(2), Stats.

#### *Background*

This rule implements the "buy local" grant program created by 2007 Wisconsin Act 20 (biennial budget act). The budget act authorized the Department of Agriculture, Trade and Consumer Protection (DATCP) to award grants for projects designed to increase local purchases of Wisconsin agricultural products. The budget act provided \$225,000 in grant funding for this biennium. The budget act also provided funding for staff and outreach.

The budget act directed DATCP to adopt rules for the program. DATCP adopted a temporary "emergency" rule, so that DATCP could immediately begin to solicit grant applications (DATCP issued a request for grant applications on February 22, 2008, the effective date of the emergency rule). This final draft rule is nearly identical to the "emergency" rule. This final draft rule does all of the following:

- Authorizes DATCP to make grant awards and distribute grant funds appropriated for the "buy local" grant program.

*Agriculture generates \$51.5 billion for Wisconsin*

Rule  
08-038 ?

- Spells out the procedures and criteria that DATCP will use to evaluate grant proposals, make grant awards and distribute grant payments.
- Spells out the purposes for which grant funds may be used, subject to the terms of the grant contract.

### **Grant Purposes**

Under this rule, the “buy local” grant program will focus mainly on food products, rather than other agricultural products such as timber, feed, fiber or nursery products (it may incidentally benefit those other products). Under this rule, DATCP may award grants for projects that are designed to increase the sale of Wisconsin food products to local purchasers. For example, DATCP may award grants for projects to create, expand, diversify or promote any of the following:

- Local food marketing systems and market outlets.
- Local food and cultural tourism trails.
- Production, processing, marketing and distribution of Wisconsin food products for sale to local purchasers.

### **Grant Limits**

Under this rule, no individual grant award may exceed \$50,000. DATCP may not make more than one grant award to the same person in the same state fiscal biennium. Once DATCP makes a grant award, DATCP may make the actual grant payments over a contract period of up to 2 years. DATCP may extend the contract term for up to one additional year upon request.

### **Matching Requirement**

To qualify for a grant under this rule, a grant recipient must make a matching commitment equal to at least 33% of the grant amount. A matching commitment may include a commitment of capital, land, labor, equipment or cash related to the grant project. Unlike the temporary “emergency” rule, this “permanent” rule allows grant recipients to use non-DATCP grant funds as part of the required “match” for DATCP “buy local” grants.

### **Use of Grant Funds**

Under this rule, grant funds may be used to reimburse any of the following expenses if those expenses are a reasonable and necessary part of the grant project:

- Operating expenses, including expenses for salaries and wages, contract and consulting services, travel, supplies and materials, and public information.
- Real estate and equipment rental.
- The purchase of equipment whose full value is ordinarily depreciable within one year.
- Reasonable depreciation expense incurred, for capital equipment, during the term of the grant contract.

Grant funds may not reimburse any of the following expenses:

- Real estate purchases.
- Repayment of loans or mortgages.
- Rent or contract payments for time periods extending beyond the term of the grant contract.
- Equipment purchases, except for certain equipment purchases and depreciation expenses specifically authorized by this rule.
- Administrative or overhead costs that are not direct costs of the grant project.

### **Grant Proposals**

Under this rule, DATCP must issue at least one request for grant proposals in each state fiscal biennium for which grant funds are appropriated (DATCP may issue more frequent requests, if it chooses to do so). The request for proposals must describe the required form and content of grant proposals, and must specify a deadline for submitting grant proposals. Grant applicants must submit grant proposals to DATCP, in the manner prescribed by DATCP's request for proposals.

### **Grant Awards**

Under this rule, DATCP must evaluate grant proposals and issue its grant awards within 90 days after the grant application deadline. DATCP must clearly identify each award recipient, the amount of the award, and the purposes for which the award is given. DATCP must consider all of the following criteria when evaluating grant proposals and making grant awards:

- The extent to which a proposed project will increase local purchases of Wisconsin food products.
- Whether the proposal complies with DATCP's request for proposals.
- Whether the proposed project meets the standards prescribed in this ~~emergency~~ <sup>rule</sup> rule.
- The viability of the proposed project.
- Additional project benefits for Wisconsin agriculture or tourism.
- The management and technical qualifications of the grant applicant.
- The qualifications of the persons who will carry out the project.
- The financial capacity of the grant applicant to complete the project as proposed.
- The adequacy of the project plan and budget.
- Whether the grant proposal adequately identifies the nature of project expenses to be reimbursed under the proposed grant.

### **Grant Contracts**

Under this rule, DATCP must enter into a grant contract with a grant recipient before distributing any grant funds to that recipient. The contract must spell out grant terms and conditions, including performance requirements, reporting requirements and payment terms.

## **Grant Payments**

Under this rule, DATCP may distribute grant funds in one or more payments, based on documented progress toward completion of the grant project. The grant contract must describe payment terms and conditions. DATCP may require a grant recipient to file progress reports and submit expense documentation as necessary to support grant payments.

## ***Public Hearings***

DATCP held one public hearing on this rule. The hearing was held in Madison, Wisconsin on May 30, 2008. One person attended the hearing in support and registered but did not testify. Sixteen people submitted written comments. Fourteen written comments were in full support of the rule. Two written comments offered suggestions including: increase visibility/public awareness, refine focus to sustainable production, and change of program name. A summary of hearing comments is attached.

## ***Changes from Hearing Draft***

DATCP modified the final draft rule to address comments from the Legislative Council Rules Clearinghouse, and to clarify the rule. There were no major substantive changes.

## ***Response to Rules Clearinghouse Comments***

DATCP modified the final draft rule to address all of the comments from the Legislative Council Rules Clearinghouse.

## ***Fiscal Impact***

This rule will have a fiscal impact on DATCP operations. Under the budget act and this rule, DATCP must issue at least one request for grant proposals in each state fiscal biennium for which grant funds are appropriated. DATCP staff must review grant applications, recommend grant awards, administer grants, and ensure compliance with applicable requirements. DATCP staff will also provide technical assistance to grant recipients, as appropriate.

Program administration will occupy at least 2.0 FTE staff in DATCP's Division of Agricultural Development (this does not include legal, managerial, DATCP central accounting, or other indirect staff support). The combined total cost for those 2.0 FTE staff will be \$147,000 per year, including salary, fringe benefits and support costs (there will be a smaller proportionate cost for the remainder of the current fiscal year). The biennial budget act authorized 1.0 new FTE staff position, including staff funding of \$42,700 GPR for the current fiscal year and \$64,100 GPR for FY 2008-09. In the short term, DATCP will try to fill remaining staffing needs by shifting current staff from other agricultural development programs.

The budget act also provided funding (but no staff positions) for training, marketing, data tracking and information technology for the “buy local” program. Funding for those purposes is \$110,000 GPR in the current fiscal year and \$165,000 in FY 2008-09.

### ***Business Impact***

The “buy local” grant program will benefit farmers, businesses and communities that participate in production, distribution or marketing of locally produced foods. Grant recipients will benefit directly, while others will benefit indirectly from the creation of stronger local food networks and systems. This rule will establish standards and procedures for the “buy local” grant program to ensure that the program is effective and accountable.

### ***Federal and Surrounding State Programs***

#### **Federal Programs**

The United States Department of Agriculture (USDA) administers a farmers market promotion program. That program offers grants to help improve and expand domestic farmers markets, roadside stands, community-supported agriculture programs and other direct farmer-to-consumer marketing mechanisms.

USDA also provides food assistance programs for pregnant women, women with infants, children up to 5 years old, and seniors who are at nutritional risk. Those programs provide or promote fresh, locally grown foods to program participants.

#### **Surrounding State Programs**

Wisconsin’s “buy local” program is the first state program of its kind in the nation. However, surrounding states provide various types and levels of support for local food systems. For example, Michigan’s state procurement policy encourages purchases from local farmers and businesses. Iowa provides over \$3 million in annual funding for local food and sustainable agriculture programs at Iowa State University- Extension (Leopold Center).

Name/Organization	Summary of Written Testimony
Dorothy Priske Fountain Prairie Inn & Farms	Full Support: High number of grant requests shows level of interest in program. Win for producer, Win for consumer, and Win for local economy
Megan Bjella Lawrence University Garden	Full Support: Current food system is broken; time to support local food production.
Jane Hansen NorthAcres Farm	Full Support: Combined grassroots and state level efforts will create incredible momentum. DATCP needs to secure funding for grant program, based on the large number of applicants
Virginia Oakland	Full Support: This program has practical, economical, and sustainable value
Susan Richardson	Full Support: Fully supportive of efforts to get the legislation passed
Judy Skog	Full Support: Must support markets now.
Jeanne Merrill Michael Fields Ag Institute	Full Support: Grant program provides crucial funds for local food; demand exceeds funds; look for additional funding; make grant funding available annually; change to winter application period
Katie Wied	Full Support: BLBW is great for economy and health of Wisconsin citizens
Phyllis Hasbrouch Fitchburg Fields	Full Support: BLBW presents important economic opportunities for WI farmers and communities. BLBW can address barriers in logistics of enhancing the local food movement
Mark Olson	Full Support: Look good as emergency rules and so the change makes no impact to me
Ann Thering	Full Support: Good for economy and health.
Faye Jones Midwest Organic and Sustainable Education Service	Full Support: Deep connection between strong local food systems and a vibrant economy. Farmers will benefit greatly from BLBW
Holly Petrillo University of Wisconsin-Stevens Point	Full Support: More money available in the future, more programs need to be funded
Erin Schneider Madison Area CSA Coalition	Full Support: Grant program provides crucial funds for local food; demand exceeds funds; look for additional funding; make grant funding available annually; change to winter application period

**PROPOSED ORDER OF THE  
WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION  
ADOPTING RULES**

- 1 The Wisconsin department of agriculture, trade and consumer protection proposes the
- 2 following order *to create* subch. IV of ch. ATCP 161, *relating to* the “buy local” grant
- 3 program created under s. 93.48, Stats.

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**Analysis Prepared by the Department  
of Agriculture, Trade and Consumer Protection**

This rule implements the “buy local” grant program created under s. 93.48, Stats., by 2007 Wisconsin Act 20 (biennial budget act). Under s. 93.48, Stats., the Department of Agriculture, Trade and Consumer Protection (“DATCP”) is authorized to award grants for projects designed to increase local purchases of Wisconsin agricultural products. The budget act appropriated \$225,000 for this grant program in the FY 2007-09 fiscal biennium.

This rule does all of the following:

- Authorizes DATCP to make grant awards and distribute grant funds appropriated for the “buy local” grant program.
- Spells out the procedures and criteria that DATCP will use to evaluate grant proposals, make grant awards and distribute grant payments.
- Spells out the purposes for which grant funds may be used, subject to the terms of the grant contract.

This rule is similar to the emergency rule that DATCP adopted effective February 22, 2008 (there are minor differences).

***Statutes Interpreted***

Statutes Interpreted: s. 93.48, Stats., and section 9103(3i) of 2007 Wisconsin Act 20 (biennial budget act).



### ***Statutory Authority***

Statutory Authority: ss. 93.48(1) and 93.07 (1), Stats., and section 9103(3i) of 2007 Wisconsin Act 20 (biennial budget act).

### ***Explanation of Statutory Authority***

DATCP has general authority under 93.07(1), Stats., to interpret laws under its jurisdiction. Section 93.48(1), Stats., specifically requires DATCP to adopt rules for the “buy local” grant program.

### ***Related Rules or Statutes***

There are no directly related rules or statutes, other than those cited above. DATCP rules for the “buy local” grant program will be incorporated as a subchapter of ch. ATCP 161, Wis. Adm. Code (agricultural development and market promotion).

### ***Rule Content***

The “buy local” grant program is designed to increase local sales of Wisconsin agricultural products. The biennial budget act appropriated \$225,000 in grant funding for the FY 2007-09 fiscal biennium. This rule spells out grant procedures and criteria. Under this rule, the “buy local” grant program will focus mainly on food products, rather than other agricultural products such as timber, feed, fiber or nursery products (it may incidentally benefit those other products).

### **Grant Purposes**

Under this rule, DATCP may award grants for projects that are designed to increase the sale of Wisconsin food products to local purchasers. For example, DATCP may award grants for projects to create, expand, diversify or promote any of the following:

- Local food marketing systems and market outlets.
- Local food and cultural tourism trails.
- Production, processing, marketing and distribution of Wisconsin food products for sale to local purchasers.

### **Grant Limits**

Under this rule, no individual grant award may exceed \$50,000. DATCP may not make more than one grant award to the same person in the same state fiscal biennium. Once DATCP makes a grant award, DATCP may make the actual grant payments over a contract period of up to 2 years. DATCP may extend the contract term for up to one additional year upon request.

## **Matching Requirement**

To qualify for a grant under this rule, a grant recipient must make a matching commitment equal to at least 33% of the grant amount. A matching commitment may include a commitment of capital, land, labor, equipment or cash related to the grant project. Under this rule, matching funds may include grant funds received from sources other than DATCP (this is a change from the temporary “emergency” rule that took effect on February 22, 2008).

## **Use of Grant Funds**

Under this rule, grant funds may be used to reimburse any of the following expenses if those expenses are a reasonable and necessary part of the grant project:

- Operating expenses, including expenses for salaries and wages, contract and consulting services, travel, supplies and public information.
- Real estate and equipment rental.
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- The extent to which a proposed project will increase local purchases of Wisconsin food products.
- Whether the proposal complies with DATCP's request for proposals.
- Whether the proposed project meets the standards prescribed in this rule.
- The viability of the proposed project.
- Additional project benefits for Wisconsin agriculture or tourism.
- The management and technical qualifications of the grant applicant.
- The qualifications of the persons who will carry out the project.
- The financial capacity of the grant applicant to complete the project as proposed.
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## ***Fiscal Impact***

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The budget act also provided funding (but no staff positions) for training, marketing, data tracking and information technology for the "buy local" program. Funding for those purposes is \$110,000 GPR in the current fiscal year and \$165,000 in FY 2008-09. A complete Fiscal Estimate is attached.

### ***Business Impact***

The "buy local" grant program will benefit farmers, businesses and communities that participate in production, distribution or marketing of locally produced foods. Grant recipients will benefit directly, while others will benefit indirectly from the creation of stronger local food networks and systems. This rule will establish standards and procedures for the "buy local" grant program to ensure that the program is effective and accountable. A complete Business Impact Analysis is attached.

### ***Federal and Surrounding State Programs***

#### **Federal Programs**

The United States Department of Agriculture (USDA) administers a farmers' market promotion program. That program offers grants to help improve and expand domestic farmers markets, roadside stands, community-supported agriculture programs and other direct farmer-to-consumer marketing mechanisms.

USDA also provides food assistance programs for pregnant women, women with infants, children up to 5 years old, and seniors who are at nutritional risk. Those programs provide or promote fresh, locally grown foods to program participants.

#### **Surrounding State Programs**

Wisconsin's "buy local" program is the first state program of its kind in the nation. However, surrounding states provide various types and levels of support for local food systems. For example, Michigan's state procurement policy encourages purchases from local farmers and businesses. Iowa provides over \$3 million in annual funding for local food and sustainable agriculture programs at Iowa State University- Extension (Leopold Center).



1           (7) “Local purchaser” means a person who buys a Wisconsin food product at a  
2 retail location near the place where the food product is produced, or for resale at a retail  
3 location near the place where the food product is produced.

4           (8) “Person” means an individual, corporation, cooperative, partnership, limited  
5 liability company, trust, governmental entity, academic institution or other legal entity.

6           (9) “Wisconsin food product” means a food product that is one of the following:

7           (a) Grown in this state.

8           (b) Produced from animals kept in this state.

9           (c) Primarily derived from food products that are grown in this state or produced  
10 from animals kept in this state.

11           **ATCP 161.42 Grant program; general. (1) GRANT PURPOSES.** The  
12 department may award grants under s. 93.48, Stats., for projects that are designed to  
13 increase the sale of Wisconsin food products to local purchasers. This may include  
14 grants for projects to create, expand, diversify or promote any of the following:

15           (a) Local food marketing systems and market outlets.

16           (b) Local food and cultural tourism routes.

17           (c) Production, processing, marketing and distribution of Wisconsin food  
18 products primarily for sale to local purchasers.

19           (2) GRANT PROPOSALS; EVALUATION. A grant award under sub. (1) shall be  
20 based on a grant proposal under s. ATCP 161.44. The department shall evaluate grant  
21 proposals according to s. ATCP 161.45.

22           (3) GRANT AWARDS. A grant award under sub. (1) shall be signed by an  
23 authorized department official. The grant award shall clearly identify the person to

1 whom the grant is awarded, the amount awarded, and the purposes for which the grant is  
2 awarded. A grant award may not exceed \$50,000. The department may not award more  
3 than one grant to the same person in any state fiscal biennium.

4 (4) GRANT TERMS AND CONDITIONS. A grant is subject to the terms and  
5 conditions provided in s. ATCP 161.43 and the grant contract. The department may  
6 specify terms and conditions to ensure that grant funds are effectively used for the  
7 purposes awarded.

8 (5) GRANT CONTRACT. The department may not distribute any grant funds to the  
9 recipient of a grant award under sub. (1) until that recipient enters into a grant contract  
10 with the department. The contract shall comply with s. ATCP 161.46.

11 *NOTE:* Grant proposals, grant awards, grant contracts, progress reports and other  
12 documents are open to public inspection to the extent provided by  
13 Wisconsin's open records law, subch. II of ch. 19, Stats.  
14

15 **ATCP 161.43 Grant terms and conditions. (1) USE OF GRANT FUNDS.** Grant  
16 funds may be used to reimburse any of the following expenses if those expenses are a  
17 reasonable and necessary part of the grant project:

18 (a) Operating expenses, including expenses for salaries and wages, contract and  
19 consulting services, travel, supplies and public information.

20 (b) Real estate and equipment rental.

21 (c) The purchase of equipment whose full value is ordinarily depreciable within  
22 one year.

23 (d) Reasonable depreciation expense incurred, for capital equipment, during the  
24 term of the grant contract.

1           (2) PROHIBITED USES OF GRANT FUNDS. Grant funds may not reimburse any of  
2 the following expenses:

3           (a) Real estate purchases.

4           (b) Repayment of loans or mortgages.

5           (c) Rent or contract payments for time periods extending beyond the term of the  
6 grant contract.

7           (d) Equipment purchases, except as specifically authorized in sub. (2)(c) and (d).

8           (e) Administrative or overhead costs that are not direct costs of the grant project.

9           (3) MATCHING CONTRIBUTIONS. The recipient of a grant award under s. ATCP  
10 161.42 shall make a matching contribution to the grant project. The matching

11 contribution shall be equal to at least 33% of the grant award. A matching contribution

12 may include the reasonable value of the grant recipient's direct contribution of capital,

13 land, labor, equipment or cash to the grant project. A matching contribution may include

14 grant funds from sources other than the department.

15           (4) GRANT PAYMENTS. The department may distribute grant funds in one or more  
16 payments, based on documented progress toward completion of the grant project. The  
17 grant contract shall describe payment terms and conditions. The department may require  
18 a grant recipient to file progress reports and submit expense documentation as necessary  
19 to support grant payments.

20           **ATCP 161.44 Grant proposals. (1) GENERAL.** To obtain a grant under s.  
21 ATCP 161.42(1), a person shall submit a grant proposal in response to a department  
22 request for grant proposals under sub. (2).



1           **(2) REQUEST FOR PROPOSALS.** (a) The department may, at any time, issue a  
2 request for grant proposals. The department shall issue a request for grant proposals at  
3 least once during every state fiscal biennium for which grant funding is appropriated. A  
4 request for grant proposals shall be signed by an authorized department official and shall  
5 include all of the following:

- 6           1. A deadline date and address for submitting grant proposals.
- 7           2. Format and content requirements for grant proposals.
- 8           3. The name, business mailing address, business email address, and business  
9 telephone number of a department representative who can provide more information or  
10 answer questions about the request for grant proposals.
- 11          4. Other relevant terms and conditions that the department wishes to include.

12           (b) The department shall mail or email each request for grant proposals under  
13 par. (a) to persons who have registered with the department to receive that mailing. The  
14 department shall also issue a general news release announcing the request for grant  
15 proposals.

16           **NOTE:** Persons who wish to register for mailings under par. (b), or who wish to  
17 obtain a free copy of a request for grant proposals under par. (a), may  
18 contact the department at the following address:  
19

20           Wisconsin Department of Agriculture, Trade and Consumer Protection  
21           “Buy Local” Grant Program  
22           P. O. Box 8911, Madison, WI 53718-8911  
23           Email: DATCPBLBW@wi.gov  
24           Telephone: (608) 224-5017

25           **ATCP 161.45 Evaluating grant proposals.** (1) EVALUATION PERIOD. The  
26 department shall evaluate grant proposals submitted under s. ATCP 161.44(1), and shall  
27 announce its grant awards under s. ATCP 161.42(1), within 90 days after the deadline

1 date specified in s. ATCP 161.44(2)(a)1. The department may require a grant applicant  
2 to submit additional information, as necessary, to complete a grant proposal.

3 (2) EVALUATION CRITERIA. In its evaluation under sub. (1), the department shall  
4 consider all of the following criteria:

5 (a) The extent to which a proposed project will increase local purchases of  
6 Wisconsin food products.

7 (b) Whether the proposal complies with the department's request for proposals  
8 under s. ATCP 161.44(2).

9 (c) Whether the proposed project complies with this subchapter.

10 (d) The viability of the proposed project.

11 (e) Additional project benefits for Wisconsin agriculture or tourism.

12 (f) The management and technical qualifications of the grant applicant.

13 (g) The qualifications of the persons who will carry out the project.

14 (h) The financial capacity of the grant applicant to complete the project as  
15 proposed.

16 (i) The adequacy of the project plan and budget.

17 (j) Whether the grant proposal adequately identifies the nature of project  
18 expenses to be reimbursed under the proposed grant, consistent with s. ATCP 161.43(1).

19 **ATCP 161.46 Grant contracts. (1) CONTRACT SIGNING.** A grant contract  
20 under s. ATCP 161.42(5) may be signed by an authorized department official after the  
21 grant recipient signs the contract.

22 (2) CONTRACT PERIOD. A grant contract under s. ATCP 161.42(5) takes effect  
23 when signed by an authorized department official under sub. (1). The original term of a

1 contract may be for not more than 2 years, but may be extended for up to a third year  
2 upon request. The contract term may extend beyond the state fiscal biennium in which  
3 funds for the contract are appropriated, provided that the department encumbers those  
4 contract funds and signs the contract in that biennium.

5 (3) CONTRACT TERMS; GENERAL. A grant contract under s. ATCP 161.42(5) is  
6 subject to the terms and conditions in s. ATCP 161.43, and other terms and conditions  
7 contained in the contract. A grant contract incorporates commitments made in the grant  
8 proposal, except as otherwise provided in the contract.

9 **NOTE:** DATCP will include, in every contract under s. ATCP 161.42(5), general  
10 terms and conditions required in state contracts under state law. The  
11 department may include other terms and conditions that it considers  
12 necessary.  
13

14 (3) PAYMENT TERMS. Every grant contract shall include payment terms and  
15 conditions, including a payment schedule if applicable.

16 **NOTE:** The department may distribute grant funds in one or more payments,  
17 based on documented progress toward completion of the grant project.  
18 The grant contract will describe payment terms and conditions. Payments  
19 are made on a reimbursement basis. The department may require a grant  
20 recipient to file progress reports and submit expense documentation as  
21 necessary to support grant payments. See s. ATCP 161.43(4).

1                   **SECTION 2. EFFECTIVE DATE:** This rule takes effect on the first day of  
2 the month following publication in the Wisconsin administrative register, as provided in  
3 s. 227.22(2)(intro.), Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By \_\_\_\_\_  
Rodney J. Nilsestuen, Secretary

# Wisconsin Department of Agriculture, Trade and Consumer Protection

## Business Impact Analysis

**Rule Subject:** "Buy Local" Grant Program  
**Adm. Code Reference:** ATCP 161 Subch. IV  
**Rules Clearinghouse #:** 08-038  
**DATCP Docket #:** 08-R-01

This rule implements the "buy local" grant program created under s. 93.48, Stats., by 2007 Wisconsin Act 20 (biennial budget act). Under s. 93.48, Stats., the Department of Agriculture, Trade and Consumer Protection ("DATCP") is authorized to award grants for projects designed to increase local purchases of Wisconsin agricultural products. The budget act appropriated \$225,000 for this grant program in the FY 2007-09 fiscal biennium.

The budget act requires DATCP to adopt rules for the "buy local" grant program. DATCP adopted a temporary emergency rule effective February 22, 2008, to implement the "buy local" grant program in the current fiscal year. This "permanent" rule will allow DATCP to continue the "buy local" grant program in future years.

### *Rule Description*

This rule does all of the following:

- Authorizes DATCP to make grant awards and distribute grant funds appropriated for the "buy local" grant program.
- Spells out the procedures and criteria that DATCP will use to evaluate grant proposals, make grant awards and distribute grant payments.
- Spells out the purposes for which grant funds may be used, subject to the terms of the grant contract.

Under this rule, the "buy local" grant program will focus mainly on food products, rather than other agricultural products such as timber, feed, fiber or nursery products. However, the program may incidentally benefit those other products.

### **Grant Purposes**

Under this rule, DATCP may award grants for projects that are designed to increase the sale of Wisconsin food products to local purchasers. For example, DATCP may award grants for projects to create, expand, diversify or promote any of the following:

- Local food marketing systems and market outlets.
- Local food and cultural tourism trails.

- Production, processing, marketing and distribution of Wisconsin food products for sale to local purchasers.

### **Eligible Expenses**

Under this rule, grant funds may be used to reimburse any of the following expenses if those expenses are a reasonable and necessary part of the grant project:

- Operating expenses, including expenses for salaries and wages, contract and consulting services, travel, supplies and public information.
- Real estate and equipment rental.
- The purchase of equipment whose full value is ordinarily depreciable within one year.
- Reasonable depreciation expense incurred, for capital equipment, during the term of the grant contract.

### **Matching Requirement**

To qualify for a grant under this rule, a grant recipient must make a matching commitment equal to at least 33% of the grant amount. A matching commitment may include a commitment of capital, land, labor, equipment or cash related to the grant project. Under this rule, matching funds may include grant funds received from sources other than DATCP (this is a change from the temporary “emergency” rule that took effect on February 22, 2008).

### **Grant Award Criteria**

Under this rule, DATCP must evaluate grant proposals and issue its grant awards within 90 days after the grant application deadline. DATCP must clearly identify each award recipient, the amount of the award, and the purposes for which the award is given. DATCP must consider the following criteria when evaluating grant proposals and making grant awards:

- The extent to which a proposed project will increase local purchases of Wisconsin food products.
- Whether the proposal complies with DATCP’s request for proposals.
- Whether the proposed project meets the standards prescribed in this rule.
- The viability of the proposed project.
- Additional project benefits for Wisconsin agriculture or tourism.
- The management and technical qualifications of the grant applicant.
- The qualifications of the persons who will carry out the project.
- The financial capacity of the grant applicant to complete the project as proposed.
- The adequacy of the project plan and budget.
- Whether the grant proposal adequately identifies the nature of project expenses to be reimbursed under the proposed grant.

## **Grant Limitations**

Under this rule, no individual grant award may exceed \$50,000. DATCP may not make more than one grant award to the same person in the same state fiscal biennium. Once DATCP makes a grant award, DATCP may make the actual grant payments over a contract period of up to 2 years. DATCP may extend the contract term for up to a third year upon request.

## **Grant Contracts**

Under this rule, DATCP must enter into a grant contract with a grant recipient before distributing any grant funds to that recipient. The contract must spell out grant terms and conditions, including performance requirements, reporting requirements and payment terms.

### ***Business Impact***

The “buy local” grant program will benefit farmers, businesses and communities that participate in production, distribution or marketing of locally produced foods. Grant recipients will benefit directly, while others will benefit indirectly from the creation of stronger local food networks and systems. Many of the beneficiaries of this program will be small businesses.

This rule will have a positive impact on program beneficiaries, because it will allow DATCP to implement the “buy local” grant program. The rule will establish basic standards and procedures for the “buy local” grant program to ensure that the program is effective and accountable. The rule standards and procedures will not have any adverse impact on program beneficiaries.

## **Accommodation for Small Business**

The “buy local” grant program will be of special benefit to small and medium-sized businesses. This rule will also benefit small businesses by allowing DATCP to implement the “buy local” program. This rule will establish basic standards and procedures for the “buy local” grant program to ensure that the program is effective and accountable. Those standards and procedures will not have any adverse effect on small business, so there is no need to make special accommodations for small business.

## **Conclusion**

The “buy local” grant program will benefit farmers, businesses and communities that participate in production, distribution or marketing of locally produced foods. Grant recipients will benefit directly, while others will benefit indirectly from the creation of stronger local food networks and systems. Many of the beneficiaries of this program will be small businesses.

This rule will have a positive impact on program beneficiaries, because it will allow DATCP to implement the "buy local" grant program. The rule will establish basic standards and procedures for the "buy local" grant program to ensure that the program is effective and accountable. The rule standards and procedures will not have any adverse impact on program beneficiaries.

Dated this 11 day of June, 2008

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By Will Hughes  
Will Hughes, Administrator,  
Division of Agricultural Development



**FISCAL ESTIMATE**

DOA-2048 N(R10/98)

 ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

Adm. Rule No.

Ch. ATCP 161 subch. IV

Amendment No. If Applicable

Subject

**"Buy Local" Grant Program**

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum certain appropriation

 Indeterminate  
 Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

 Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No
 Decrease CostsLocal:  No Local Government Costs
1.  Increase Costs  
 Permissive       Mandatory  
2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory  
4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:

 Towns       Villages       Cities  
 Counties       Others  
 School Districts       WTCS Districts

Fund Sources Affected

 GPR    FED    PRO    PRS    SEG    SEG-S

Affected Ch. 20 Appropriations

20.115 (3)(a)

**Assumptions Used in Arriving at Fiscal Estimate****Background**

The "buy local" grant program is designed to increase local sales of Wisconsin agricultural products. The biennial budget act appropriated \$225,000 in grant funding for the FY 2007-09 fiscal biennium, and assigned the Department of Agriculture, Trade and Consumer Protection (DATCP) to administer the grant program. This rule spells out grant procedures and criteria. Among other things, this rule:

- Authorizes DATCP to make grant awards and distribute grant funds appropriated for the "buy local" grant program.
- Spells out the procedures and criteria that DATCP will use to evaluate grant proposals, make grant awards and distribute grant payments.
- Spells out the purposes for which grant funds may be used, subject to the terms of the grant contract.

**Fiscal Impact**

The "buy local" grant program and this rule will have a fiscal impact on DATCP operations (the primary fiscal effect arises from the grant program itself, not from this rule). DATCP must issue at least one request for grant proposals in each state fiscal biennium for which grant funds are appropriated. DATCP staff must review grant applications, recommend grant awards, administer grants, and ensure compliance with applicable requirements. DATCP staff will also provide technical assistance to grant recipients, as appropriate.

Program administration will occupy at least 2.0 FTE staff in DATCP's Division of Agricultural Development (this does not include legal, managerial, DATCP central accounting, or other indirect staff support). The combined total cost for those 2.0 FTE staff will be \$147,000 per year, including salary, fringe benefits and support costs (there will be a smaller proportionate cost for the remainder of the current fiscal year). The biennial budget act authorized 1.0 new FTE staff position, including staff funding of \$42,700 GPR for the current fiscal year and \$64,100 GPR for FY 2008-09. In the short term, DATCP will try to fill remaining staffing needs by shifting current staff from other agricultural development programs.

The budget act also provided funding (but no staff positions) for training, marketing, data tracking and information technology for the "buy local" program. Funding for those purposes is \$110,000 GPR in the current fiscal year and \$165,000 in FY 2008-09.

**Long-Range Fiscal Implications**

Program operating costs will be ongoing, and will be subject to staff salary and fringe benefit adjustments.

Agency/Prepared by: (Name &amp; Phone No.)

 DATCP  
 Amy Bruner Zimmerman (608) 224-5017

Authorized Signature/Telephone No.

*Barbara Knapp*  
 Barbara Knapp (608) 224-4746

Date

6-11-08



## Ruby, Erin

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**From:** Rep.Ott  
**Sent:** Monday, July 14, 2008 3:21 PM  
**To:** Rep.Garthwaite; Rep.Gronemus; Rep.Jorgensen; Rep.Molepske; Rep.Mursau; Rep.Murtha; Rep.Nerison; Rep.Tauchen; Rep.Vruwink; Rep.WilliamsM  
**Cc:** Arrowood, Craig; Cross, William; Halbach, Nathan; Hochhausen, Natolie; Hoelter, Jon; Junck, Linda; Kraak, Maureen; McKinny, Chris; Nelson, Elise; 'Palese Tony'; Patronskey, Mark; Peterson2, Ilsa; Plata, Christian; Potts, Andrew; Rausch, Scott; Smith-Loomans, Sandra; Sweeney, Rebekah; Wolkomir, Jon; 'Moll, Keeley A - DATCP'  
**Subject:** Clearinghouse Rule Referred to Assembly Committee on Agriculture  
**Attachments:** 20080714150036862.pdf

The following Clearinghouse Rule has been referred to the Assembly Committee on Agriculture for a 30 day review period:

**Clearinghouse Rule 08-038: "Buy Local" Grant Program**

A copy of the rule is attached (24 pages).



2008071415003686  
2.pdf (1 MB)

Please contact my office if you have any questions, need a hard copy of this document, or would like to request a hearing on this rule.

The initial 30 day deadline for committee review is Wednesday, August 13, 2008.

DATE: July 14, 2008

TO: Erin Ruby

Committee on Agriculture

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

### **CLEARINGHOUSE RULE 08-038**

AN ORDER to create subchapter IV of chapter ATCP 161, relating to the "buy local" grant program created under s. 93.48, Stats.

Submitted by **Department of Agriculture, Trade and Consumer Protection.**

Report received from Agency on **June 30, 2008.**

To committee on **Agriculture.**

Referred on **Monday, July 14, 2008.**

Last day for action - **Wednesday, August 13, 2008.**

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. **(Please note that the text of Rules beginning with the prefix "01" is available online in the Clearinghouse Rules infobase in FOLIO.)** Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Kay Inabnet (6-5550) or your Legislative Council attorney. If you wish to learn more on this subject, read *Review of Administrative Rules* which is part of the Legislative Council's Wisconsin Legislator Briefing Book series, section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.





Al Ott

State Representative • 3rd Assembly District

August 14, 2008

Secretary Rod Nilsestuen  
Wisconsin Department of Agriculture, Trade & Consumer Protection  
2811 Agriculture Drive  
Madison, WI 53708

Dear Secretary Nilsestuen,

This letter is to inform you that the following clearinghouse rule has been reported out of the Assembly Committee on Agriculture:

Clearinghouse Rule #08-038  
Relating to: The "Buy Local" Grant Program

A public hearing was not held, and no committee action was taken on the rule.

Please feel free to contact my office if you have any questions.

Sincerely,

Al Ott  
State Representative  
Chair, Assembly Committee on Agriculture