

Clearinghouse Rule 22-056**ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT**

The Wisconsin Department of Workforce Development adopts the following order *to repeal* DWD 801.03 (5), (7), (14) and (20), 801.05 (1) (d) and (Note), (3) (a) and (b), (4) (a), (c), (j) and (k), 801.07 (3), 801.08 (4) and 801.09 (4); *to renumber* DWD 801.10 (1); *to renumber and amend* DWD 801.03 (10) and (18), 801.06 (3), 801.10 (intro.) and (2); *to amend* DWD 801.01, 801.02, 801.03 (1), (2), (8), (9), (12), (13), (15) and (Note), (21) and (22), 801.04 (1) and (2), 801.05 (1) (a) and (c), (2), (3) (c) and (d), (4) (intro.), (b), (h) and (i), (5) (a) and (b) (intro.) and 3. (6) (a), (b) and (d), 801.06 (2), (4) and (6) (c), 801.07 (1) and (2), 801.08 (intro.), (1), (2), (3), (5), (6) and (7), 801.09 (1) (intro.), (a) (intro.), (b) and (c), (2) (title) and (intro.) and (3), 801.10 (4), 801.11 (1), (2), (3) (intro.), (a) and (c) to (g), 801.12 (intro.), (3) and (4) and 801.13 (1) to (3); *to repeal and recreate* DWD 801.04 (title) and 801.05 (3) (title); and *to create* 801.03 (15g), (15r), (17m), (18) (c) and (20m), 801.05 (2) (Note) and (4) (im), (jm) and (km), 801.06 (3) (a) and (b), 801.09 (1) (d) and (2) (g) and (h) and 801.13 (4), relating to Wisconsin Fast Forward Workforce Training Grants.

The Governor approved the scope statement for this rule, SS 009-20, on March 20, 2020. The scope statement was published in register No. 771A4, on March 23, 2020. This rule was approved by the Governor on _____, 2022.

Analysis Prepared by the Department of Workforce Development***Statutes interpreted***

Section 106.27, Stats.

Statutory authority

Section 106.27 (2g) (a) 1. and 3., Stats.

Explanation of statutory authority

Section 106.27 (2g) (a) 1., Stats. requires the Department to promulgate rules prescribing procedures and criteria for awarding grants under s. 106.27 (1), Stats. As originally enacted by 2013 Wisconsin Act 9, s. 106.27 (1), Stats., requires the Department to award grants to public and private organizations to develop and implement workforce training programs for unemployed workers, underemployed workers, and incumbent employees of businesses in this state. This grant program is known as the standard Wisconsin Fast Forward program. Section 106.27 (2g) (a) 3., Stats., requires grant recipients to make reports to the Department regarding

expenditures, activities, and outcomes under the grants. Section 106.27 (2g) (a) 1., Stats., requires the Department to promulgate rules prescribing the information that must be contained in the reports.

The Department adopted ch. DWD 801 to satisfy the above rule promulgation requirements. The legislature subsequently enacted other acts to authorize additional grants under s. 106.27 (1), Stats., and other statutes under a program known as the expanded Wisconsin Fast Forward Program. Of those acts, 2017 Wisconsin Act 59 and 2019 Wisconsin Act 9 authorized grants under s. 106.27 (1), Stats. As noted above, s. 106.27 (2g) (a) 1., Stats., requires the Department to promulgate rules prescribing procedures and criteria for awarding grants under s. 106.27 (1), Stats., and prescribing the information that must be included in reports about the grants. This proposed rule revises ch. DWD 801 to satisfy these rule promulgation requirements.

Related statutes or rules

The Workforce Innovation and Opportunity Act (WIOA), Public Law 113-128.

Plain language analysis

This rule revises ch. DWD 801, which governs grants under the Wisconsin Fast Forward and expanded Wisconsin Fast Forward programs. The revisions include the following:

Terminology. The rule defines "project" as a workforce training program that an applicant proposes to conduct under a grant. In addition, the rule defines "placement partner" as an employer, other than a grant applicant, that, upon completion of a project, makes certain commitments regarding hiring unemployed or underemployed workers or providing full-time employment, higher-level employment, or wage increases to incumbent employees. The rule also defines "trainee" as an individual who receives workforce training under a project. The rule revises the chapter to consistently refer to all of the foregoing terms.

Applications for grants. As under current ch. DWD 801, the rule requires the Department to solicit applications for grants by publishing a Grant Program Announcement or GPA. The rule requires a GPA to specify the outcomes that grantees must achieve and any matching funds that the Department requires from grantees pursuant to its statutory authority. As under current ch. DWD 801, the rule allows certain public and governmental entities, including tribal governing bodies, to apply for grants, but refers to those entities as "public organizations" instead of "public agencies." The rule also allows a consortium of placement partners to apply for a grant, but only if a lead public organization or private for-profit or non-profit business or service provider serves as the applicant for the grant.

The rule makes the following changes to the contents of an application. The rule eliminates requirements for applications to include an application summary sheet and checklist, which are duplicative of other application requirements. The rule also eliminates a requirement for an application to include documentation verifying compliance with state and federal lobbying laws. This requirement is not necessary because federal lobbying laws do not apply to this state-funded grant program. The requirement is also not necessary because current DWD ch. 801 prohibits

using grant funds for lobbying purposes and the rule does not affect that prohibition. The rule also affects applications by specifying the information that must be included in the narrative description of the project that is required under current ch. DWD 801. In addition, the rule requires an application for a consortium of placement partners to identify the placement partners. The rule also eliminates a requirement for written documentation of agreements with partners and requires instead letters of commitment from placement partners, as well as from organizations that will provide matching contributions to the project.

The rule adds the following eligibility requirements for applying for grants: 1) applicants must be in compliance with applicable federal and state laws and regulations and 2) projects funded by grants must propose plans to achieve the outcomes specified in GPAs. The rule requires the Department to deny an application that fails to meet any eligibility requirements or to include the required contents. Like current ch. DWD 801, the rule provides that such a denial is not subject to administrative review.

Department action on applications. The rule eliminates an evaluation committee that is authorized to evaluate applications and allows the department to invite persons to participate in evaluations. The rule adds cost-per-trainee as an additional factor the Department is allowed to consider in reviewing an application. The rule changes the Department's deadline regarding an application. Under current ch. DWD 801, the Department must notify an applicant about the Department's decision with 60 days of a grant application deadline. Under the rule, within that same deadline, the Department may either 1) notify the applicant about the Department's decision or 2) notify the applicant of the status of the application and the date by which the Department anticipates acting on the application. The rule also makes revisions that allow an applicant to request administrative review of, instead of appeal, an adverse decision regarding an application. These revisions more accurately reflect the Department's long-standing process when an applicant seeks review of an adverse decision.

Matching contributions. As noted above, the rule requires a GPA to specify any matching contributions that the Department requires from grantees. The rule also specifies that match contributions must be from private or public funds, instead of from locally generated or federal revenues as required under current ch. DWD 801. As under the current chapter, the rule allows in-kind contributions to satisfy match contribution requirements, but the rule specifies that a grantee must provide the basis for valuing the in-kind contributions. The rule eliminates a limit on the percentage of match contributions that can be expended on instructional materials, software, and equipment.

Use of grant funds. Current ch. DWD 801 allows grant funds to be used to purchase capital equipment if the Department gives its prior written approval. Because funding capital expenditures is not the purpose of the grant program, the rule prohibits using grant funds for purchasing capital equipment. The rule also prohibits using grant funds on pre-existing programs, as defined in the rule. In addition, the rule eliminates a prohibition on using grant funds to supplant existing employee wages and compensation. The prohibition is redundant because (a) current chapter DWD 801 prohibits using grant funds for trainee wages, stipends, or fringe benefits and (b) the rule prohibits using grant funds on pre-existing programs. The rule eliminates a statement that grant funds may be used to train persons who work less than full-

time. The statement is unnecessary based on current ch. DWD 801's definition of "underemployed worker" and because current ch. DWD 801 does not otherwise prohibit using grant funds for that purpose. Currently, ch. DWD 801 allows the Department to limit administrative costs to no more than 5% of a project's total budget. The rule provides instead that the Department may limit the amount of grant funds that can be used for administrative costs to no more than 10% of the costs reimbursed under a grant. A similar limit applies for workforce investment activities that are funded under Title I of WIOA. The rule also revises the definition of "administrative costs."

Other revisions. The rule also does the following:

- Eliminates requirements regarding the Department's ownership of instructional materials, software, and equipment developed under grants and the rights of grantees to make future use of those items.
- Clarifies that a prohibition on a grantee receiving more than \$400,000 annually in grants does not apply to a grantee who serves as an applicant for a consortium of placement partners.

Summary of, and comparison with, existing or proposed federal regulations

WIOA provides funding for employment and training programs. With the approval of the Council on Workforce Investment, the Department provides grant allocations to 11 regional workforce development boards, which fund and supervise local programs. Programs for employment placement and retention, job training, and education-related training programs are delivered through Wisconsin Job Centers.

The proposed rule has purposes that are similar to those under federal regulations implementing WIOA, 20 CFR part 652. Those federal regulations relate to the establishment and functioning of state employment service and have the basic purpose to improve the functioning of the nation's labor markets by bringing together individuals who are seeking employment and employers who are seeking workers.

Comparison with rules in adjacent states

Minnesota. The Minnesota Job Skills Partnership Program is a state grant program, funded by state general purpose revenue, which is focused on connecting state businesses with training opportunities through educational or nonprofit institutions who can provide skills development training for the workforce. Approximately 65% of the grants have provided skills training for state manufacturers, which is followed by health and social service providers. Financial match was recently lowered to a one-to-one ratio, which requires employers to provide approximately 1 dollar for every public dollar provided. Partnership grants are awarded in amounts up to \$400,000, with a "short form" application option available to grantees requesting \$50,000 or less.

Illinois. The Illinois Department of Commerce and Economic Opportunity offers the Illinois Talent Pipeline program, which provides employer-based grant opportunities in the following

categories: class-sized training, customized training, incumbent worker training, on-the-job training, and apprenticeship opportunities. These programs allow employers to upgrade the skills of their employees, remain current with technology and business practices, and provide new skills to new hires. The program continually expects to award 8 to 10 pilot projects of \$250,000 to \$500,000 each cycle, with up to 50 percent of eligible costs being reimbursable. Illinois has not offered additional funding for this program since the 2018 state fiscal year.

Iowa. Legislation passed in 2018 created the Future Ready Initiative, which connects individuals to the education and training needed to obtain careers and jobs at a livable wage. The initiative offers opportunities for adult learners, high school students, teachers, counselors, and employers. As part of this initiative, the Employer Innovation Fund provides a grant opportunity for employers to carry out creative solutions to address local workforce needs. Program offerings include certifications, trainings, funding for mobile construction labs, and other offerings. The maximum grant award is \$50,000 and a one-to-one match ratio is required. In addition, projects must be completed within a 12-month period.

Michigan. The Michigan Industry Cluster Approach strategy focuses on the following industry clusters: agriculture, construction, energy, healthcare, information technology, and manufacturing, mobility, hospitality, and outdoor recreation. Under the strategy, regional agencies work with employers to identify industry demand and vacancies to provide input on the design of educational program offerings, employment skills requirements, and the development of industry solutions. By partnering with regional cluster teams, the state's cluster team can align services and programs with identified needs for workers and skills statewide. There are various programs under this strategy, including the Michigan Industry Cluster Approach 2.0 grant program, which focuses on helping the development and launch of employer-led collaboratives to provide funds for talent recruitments, customized training programs, transportation, financial planning education, and other purposes.

Summary of factual data and analytical methodologies

The rules of other public grant programs were reviewed as part of the process for developing this proposed rule. The Department also relied on its experience in administering the standard and expanded Wisconsin Fast Forward programs. No other data or analysis was needed.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis

The analysis is based upon the text of the proposed rule and s. 106.27, Stats. The Department posted the scope statement for the rule for 14 days to solicit comments on economic impact from the public and no comments were received.

Effect on small business

The rule is not expected to have a significant economic effect on small businesses, as defined in s. 227.114 (1), Stats. The rule has no effect on small businesses, as so defined, that do not apply

for workforce training grants. Any business that does apply for a grant will have to comply with the administration and reporting requirements of the rule.

Agency contact person

Questions and comments related to this rule may be directed to:

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Place where comments are to be submitted and deadline for submission

Mark Kunkel, Rules and Records Coordinator
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Comments will be accepted until a date to be determined. Information as to the place, date, and time of the public hearing, as well as the deadline for submitting comments, will be published in the Wisconsin Administrative Register.

Text of Rule

1 **SECTION 1.** DWD 801.01 is amended to read:

2 DWD 801.01 **Authority and purpose.** This chapter is created to establish the rules that
3 shall govern the administration and granting of funds for the training of unemployed and
4 underemployed workers and incumbent employees in this state, as authorized under s. 106.27
5 (1), Stats.

6 **SECTION 2.** DWD 801.02 is amended to read:

7 DWD 801.02 **Applicability.** This chapter applies to the department, to applicants for
8 grants awarded by the department, and to public and private organizations that are awarded

1 grants by the department, all in connection with workforce training grants applied for and
2 awarded under s. 106.27 (1), Stats.

3 **SECTION 3.** DWD 801.03 (1) and (2) are amended to read:

4 DWD 801.03 **(1)** "Administrative costs" means costs associated with ~~implementing grant~~
5 ~~objectives and activities, such as the provision of office space, telephone service, and employees~~
6 a grantee's general administration of a grant, such as office supplies and the wages and benefits of
7 staff who perform functions related to the administration of the grant but who do not directly carry
8 out the grant's objectives or activities.

9 **(2)** "Applicant" means a public or private organization that applies for a grant from the
10 department for the development or implementation of a ~~workforce training program~~ project.

11 **SECTION 4.** DWD 801.03 (5) and (7) are repealed.

12 **SECTION 5.** DWD 801.03 (8) and (9) are amended to read:

13 DWD 801.03 **(8)** "Grant" means ~~an agreement~~ a contract between the department and ~~the a~~
14 grantee whereby the department provides funds from the appropriation under s. 20.445 (1) (b),
15 Stats., for the purposes specified in s. 106.27 ~~(2g)~~ (1), Stats.

16 **(9)** "Grantee" means a public or private organization ~~or agency~~ receiving a grant ~~either~~
17 ~~directly or indirectly~~ from the department.

18 **SECTION 6.** DWD 801.03 (10) is renumbered DWD 801.03 (10) (intro.) and, as renumbered, is
19 amended to read:

20 DWD 801.03 **(10)** (intro.) "Grant Program Announcement" or "GPA" means a document ~~that~~
21 ~~describes~~ describing a grant program, ~~invites~~ that include provisions for all of the following:

1 (a) Soliciting applications for the grant, specifies grants, specifying who may apply, and
2 establishes establishing application procedures, including requirements for demonstrating
3 eligibility under s. DWD 801.04.

4 (b) Establishing criteria for awarding grants, and.

5 (c) Establishing conditions and restrictions that accompany grants, including any outcomes
6 the grantee must achieve under the grant program and any matching funds required by the grantee
7 under s. 106.27 (1) (intro.), Stats.

8 **SECTION 7.** DWD 801.03 (12) and (13) are amended to read:

9 DWD 801.03 (12) "In-kind contributions" means the monetary value of noncash
10 contributions provided by ~~the~~ a grantee or third parties which directly benefit and are specifically
11 identifiable to the ~~program~~ project.

12 (13) "Incumbent employee" means an ~~employee or worker~~ individual who is currently
13 employed by a ~~qualified employer~~ applicant or placement partner.

14 **SECTION 8.** DWD 801.03 (14) is repealed.

15 **SECTION 9.** DWD 801.03 (15) and Note are amended to read:

16 DWD 801.03 (15) "~~O*Net~~" "O*NET" means a United States government system of
17 classifying occupations. ~~O*Net~~ O*NET occupation codes are unique numbers assigned to each
18 occupation. ~~O*Net~~ O*NET is used for career exploration, job analysis, and statistical analysis.

19 **Note:** More information about ~~O*Net~~ O*NET can be found at the U.S. Department of Labor
20 websites <http://www.onetonline.org/> and <http://www.onetcenter.org/>.

21 **SECTION 10.** DWD 801.03 (15g) and (15r) are created to read:

22 DWD 801.03 (15g) "Placement partner" means an employer, other than an applicant, that
23 commits to hire unemployed and underemployed workers who successfully complete training or

1 to provide incumbent employees who successfully complete training with full-time employment,
2 higher-level employment, or wage increases when the project is complete.

3 (15r) "Pre-existing training program" means an employment training program that an
4 applicant or placement partner has previously conducted to increase trainees' or workers' skills to
5 better match the applicant's or placement partner's needs. "Pre-existing training program" does
6 not include a pilot program conducted to evaluate feasibility.

7 **SECTION 11.** DWD 801.03 (17m) is created to read:

8 DWD 801.03 (17m) "Project" means the development or implementation of a workforce
9 training program that an applicant proposes to conduct under a grant.

10 **SECTION 12.** DWD 801.03 (18) is renumbered DWD 801.03 (18) (intro.) and, as renumbered, is
11 amended to read:

12 DWD 801.03 (18) (intro.) ~~"Public agency"~~ "Public organization" means any
13 ~~governmental~~ of the following:

14 (a) A state or local agency, department, committee, council, or public body created by
15 constitution, statute, ordinance, or rule, including but not limited to a county, city, village, town,
16 school district, or technical college district, or district board, and an agency of the state
17 ~~government or a.~~

18 (b) A formally constituted subunit of any of these entities an entity specified in par. (a).

19 **SECTION 13.** DWD 801.03 (18) (c) is created to read:

20 DWD 801.03 (18) (c) A tribal governing body of a federally recognized tribe or band of
21 Indians or an organization appointed by the tribal governing body.

22 **SECTION 14.** DWD 801.03 (20) is repealed.

23 **SECTION 15.** DWD 801.03 (20m) is created to read:

1 DWD 801.03 (20m) "Trainee" means an individual receiving workforce training in a project
2 conducted under a grant.

3 **SECTION 16.** DWD 801.03 (21) and (22) are amended to read:

4 DWD 801.03 (21) "Underemployed worker" means an ~~employee or worker~~ individual who
5 is currently employed ~~but not~~ in a capacity that ~~reflects~~ does not reflect the skills and experience
6 of the ~~employee or worker~~ individual and that is reflected in less than desirable terms of
7 compensation, hours, or responsibility.

8 (22) "Unemployed worker" means an individual who is currently out of work and is available
9 for work. "Unemployed worker" includes a secondary education student in a ~~workforce training~~
10 ~~program when~~ project for which the employer confirms an intent to hire students who successfully
11 complete the ~~program~~ project. "Unemployed worker" does not include an individual who is not
12 working but anticipates being called back to his or her regular employment.

13 **SECTION 17.** DWD 801.04 (title) is repealed and recreated to read:

14 DWD 801.04 (title) **Eligibility.**

15 **SECTION 18.** DWD 801.04 (1) and (2) are amended to read:

16 DWD 801.04 (1) ELIGIBLE APPLICANTS. Any public or private organization or public agency
17 that is current on all federal and state tax obligations, is in compliance with applicable federal and
18 state laws and regulations, and is financially viable is eligible to ~~apply for~~ receive grant funds and
19 ~~provide program services~~.

20 (2) ELIGIBLE PROJECTS. ~~An eligible program or~~ A project is one eligible to receive grant
21 funds if it proposes a plan that does all of the following:

22 (a) Trains unemployed workers, underemployed workers, incumbent employees, or any
23 combination of unemployed workers, underemployed workers, or incumbent employees.

1 (b) Achieves the outcomes required by the GPA, which demonstrates plans and progress in
2 increasing new jobs may include improving employment, reducing layoffs, and increasing overall
3 employment in the state by increasing unemployed and underemployed workers' and incumbent
4 employees' skills to better match employers' needs.

5 **SECTION 19.** DWD 801.05 (1) (a) and (c) are amended to read:

6 DWD 801.05 (1) (a) A public ~~agency~~ organization.

7 (c) A ~~coalition or partnership of entities under the auspices of a consortium of placement~~
8 partners with a lead public agency or a private organization serving as the applicant.

9 **SECTION 20.** DWD 801.05 (1) (d) and Note are repealed.

10 **SECTION 21.** DWD 801.05 (2) is amended to read:

11 DWD 801.05 (2) SOLICITATION. The department shall solicit applications for ~~initial~~ grants by
12 ~~preparing one or more GPAs, publishing a notice of the availability of each~~ publishing a GPA on
13 the department's website, and distributing. The department may also distribute copies of the GPA
14 ~~on request to interested parties.~~

15 **SECTION 22.** DWD 801.05 (2) Note is created to read:

16 DWD 801.05 (2) **Note:** GPAs can be found on the department's website at
17 https://wisconsinfastforward.com/wff_standard.htm.

18 **SECTION 23.** DWD 801.05 (3) (title) is repealed and recreated to read:

19 DWD 801.05 (3) (title) SUBMISSION OF APPLICATIONS.

20 **SECTION 24.** DWD 801.05 (3) (a) and (b) are repealed.

21 **SECTION 25.** DWD 801.05 (3) (c) and (d) are amended to read:

1 DWD 801.05 (3) (c) ~~The~~ An applicant shall submit an application shall be submitted for a
2 grant to the department in accordance with the deadline and processes indicated in the GPA for
3 the grant, which may include instructions for applications on paper or in an electronic format.

4 (d) The department ~~shall~~ may issue grant guidelines and may update the guidelines as
5 necessary. The guidelines may contain clarification or additional information on grant application
6 instructions, requirements, and procedures, application deadline date, allowable uses of funds, and
7 award limits.

8 **SECTION 26.** DWD 801.05 (4) (intro.) is amended to read:

9 DWD 801.05 (4) CONTENT OF APPLICATION. (intro.) An application for a grant for a project
10 shall include all of the following:

11 **SECTION 27.** DWD 801.05 (4) (a) is repealed.

12 **SECTION 28.** DWD 801.05 (4) (b) is amended to read:

13 DWD 801.05 (4) (b) Identification and contact information for the project point of contact,
14 the financial officer for the project, and the signatories authorized by the proposed grantee to
15 execute legal documents.

16 **SECTION 29.** DWD 801.05 (4) (c) is repealed.

17 **SECTION 30.** DWD 801.05 (4) (h) and (i) are amended to read:

18 DWD 801.05 (4) (h) A narrative description of the ~~program~~ project, including the number of
19 unemployed and underemployed workers and incumbent employees that will be enrolled as
20 trainees in the project and how the project will achieve the outcomes required by the GPA.

21 (i) A statement of ~~assurance~~ assurances and certifications in accordance with s. DWD 801.12.

22 **SECTION 31.** DWD 801.05 (4) (im) is created to read:

1 DWD 801.05 (4) (im) If the applicant is the lead for a consortium of placement partners, the
2 names of the placement partners.

3 **SECTION 32.** DWD 801.05 (4) (j) is repealed.

4 **SECTION 33.** DWD 801.05 (4) (jm) is created to read:

5 DWD 801.05 (4) (jm) For applicants proposing to use one or more placement partners, in
6 whole or in part, to achieve the outcomes required by the GPA, a letter of commitment from each
7 placement partner describing the commitment the placement partner has made to the applicant to
8 achieve the outcomes required by the GPA. A letter of commitment under this paragraph must be
9 signed by an official of the placement partner who has the authority to enter a binding commitment
10 on its behalf.

11 **SECTION 34.** DWD 801.05 (4) (k) is repealed.

12 **SECTION 35.** DWD 801.05 (4) (km) is created to read:

13 DWD 801.05 (4) (km) A letter of commitment from each organization that will be providing
14 match contributions to the project stating the match contribution that the organization will make.
15 A letter of commitment under this paragraph must be signed by an official of the organization who
16 has the authority to enter a binding commitment on its behalf.

17 **SECTION 36.** DWD 801.05 (5) (a) is amended to read:

18 DWD 801.05 (5) (a) *Preliminary review.* All grant applications shall meet the eligibility
19 requirements under s. DWD 801.04 and include all of the application contents specified in sub.
20 (4). The department or ~~evaluation committee~~ persons invited by the department shall review each
21 application for eligibility under s. DWD 801.04 and compliance with the format and content
22 specifications of sub. (4) and the GPA. The department may deny any application that fails to
23 ~~meet all of the criteria~~ any of the eligibility requirements or fails to comply with the format and

1 content specifications. Denial of an application under this paragraph is not subject to
2 administrative review.

3 **SECTION 37.** DWD 801.05 (5) (b) (intro.) is amended to read:

4 DWD 801.05 (5) (b) *Evaluation criteria.* (intro.) The department or ~~evaluation committee~~
5 persons invited by the department shall evaluate grant applications that meet the criteria as
6 specified in par. (a) against criteria specified in ~~sub. (4) and the GPA. The criteria shall include~~
7 and all of the following criteria:

8 **SECTION 38.** DWD 801.05 (5) (b) 3. is amended to read:

9 DWD 801.05 (5) (b) 3. The applicant's stated purpose and objectives for the ~~program~~ project
10 and methods and timetable for implementing the ~~program~~ project.

11 **SECTION 39.** DWD 801.05 (6) (a) and (b) are amended to read:

12 DWD 801.05 (6) (a) The department or ~~evaluation committee~~ persons invited by the
13 department shall ~~weight~~ weigh the importance of each evaluation criterion by assigning points to
14 it. The criteria weighting shall be provided in the GPA.

15 (b) Using the evaluation criteria specified in ~~subs. (4) and sub. (5) (b)~~, the department or
16 ~~evaluation committee~~ persons invited by the department shall evaluate each application against
17 each applicable criterion and assign points signifying the degree to which the application meets
18 the criterion up to the maximum number of points specified in the GPA. The total points assigned
19 to the application for all applicable criteria will be the score for the application.

20 **SECTION 40.** DWD 801.05 (6) (d) is amended to read:

21 DWD 801.05 (6) (d) In addition to ~~the staff~~ application rankings and ~~evaluation committee~~
22 ~~recommendations~~, considerations may include underserved populations, strategic priorities, past

1 performance, underserved geographic areas, potential to replicate the ~~program project~~, and
2 available funding.

3 **SECTION 41.** DWD 801.06 (2) is amended to read:

4 DWD 801.06 (2) EXCEPTIONS. In reviewing a grant application, the department may do any
5 of the following:

6 (a) ~~May reject~~ Reject any application which fails to meet the content specifications under s.
7 DWD 801.05 (4). Rejection of an application for failure to meet the content specifications under
8 s. DWD 801.05 (4) is not subject to ~~appeal~~ administrative review.

9 (b) ~~May negotiate~~ Negotiate the amount of an award, authorized budget items and
10 programmatic goals and objectives before awarding a grant to an applicant.

11 (c) ~~May consider~~ Consider additional factors, including underserved populations, strategic
12 priorities, past performance, underserved geographic areas, potential to replicate the ~~program~~
13 project, cost per trainee, and available funding.

14 **SECTION 42.** DWD 801.06 (3) is renumbered DWD 801.06 (3) (intro.) and, as renumbered, is
15 amended to read:

16 DWD 801.06 (3) NOTIFICATION. (intro.) The department shall notify each applicant, in
17 writing, within 60 days of the deadline stated in the GPA for submitting a grant application, of ~~the~~
18 ~~department's decision on the application.~~ either of the following:

19 **SECTION 43.** DWD 801.06 (3) (a) and (b) are created to read:

20 DWD 801.06 (3) (a) The department's decision on the application.

21 (b) The current status of the application and the date by which the department anticipates
22 acting on the application.

23 **SECTION 44.** DWD 801.06 (4) is amended to read:

1 DWD 801.06 (4) ~~APPEAL~~ ADMINISTRATIVE REVIEW. Except as provided in s. DWD 801.05
2 (5) (a) and sub. (2) (a), an applicant for a grant described in a GPA may ~~appeal to the department~~
3 request an administrative review of an adverse decision of the department regarding the
4 application. The ~~appeal request~~ shall be in writing ~~and shall fully identify all contested issues~~.
5 The ~~appeal request~~ shall be ~~filed with~~ received by the department within 10 working days of the
6 date on which the notice of awards under the GPA is postmarked.

7 **SECTION 45.** DWD 801.06 (6) (c) is amended to read:

8 DWD 801.06 (6) (c) Any funds that become available due to a denial of an award to a selected
9 grantee applicant as a result of failure of the selected grantee applicant to sign the required
10 agreement contract, or as a result of termination of a project by the department or the grantee
11 applicant, shall be reallocated by the department at its discretion but within the limits of the intent
12 of the appropriation and this chapter.

13 **SECTION 46.** DWD 801.07 (1) and (2) are amended to read:

14 DWD 801.07 (1) **PROHIBITED USE OF FUNDS.** Grant funds shall be used only for the payment
15 or reimbursement of expenses which are allowable under s. DWD 801.09, reasonable, necessary,
16 and properly assignable to the purposes of an approved grant. Any other use of grant funds is
17 prohibited.

18 (2) **VIOLATION OF PROHIBITED ACTIVITIES.** If a grantee uses grant funds for prohibited
19 activities under sub. (1), the department may terminate the grant and recover funds previously paid
20 to the grantee ~~for that funding period on a recoupment schedule specified in the grant contract~~
21 under the grant.

22 **SECTION 47.** DWD 801.07 (3) is repealed.

23 **SECTION 48.** DWD 801.08 (intro.), (1), (2) and (3) are amended to read:

1 DWD 801.08 **Match requirement.** (intro.) ~~Match expenditures shall comply with~~
2 contributions determined by the department under s. 106.27 (1) (intro.), Stats, are subject to all of
3 the following criteria:

4 (1) ~~A- The match expenditure contributions shall be from locally generated revenues or~~
5 ~~federal revenues~~ private funds or public funds specifically authorized by federal or state law to be
6 ~~used as match to state funds~~ satisfy the matching requirements.

7 (2) ~~A- The match expenditure under this chapter contributions may not be used as match to~~
8 ~~satisfy~~ any other state or federal ~~funds~~ matching requirements.

9 (3) ~~A- The match expenditure contributions shall be made during the required matching~~
10 ~~period identified in the GPA and the grant.~~

11 **SECTION 49.** DWD 801.08 (4) is repealed.

12 **SECTION 50.** DWD 801.08 (5), (6) and (7) are amended to read:

13 DWD 801.08 (5) Trainee wages, stipends, and fringe benefits may be considered as match
14 ~~expenditures~~ contributions.

15 (6) In-kind contributions may be ~~considered as match expenditures~~ accepted as part of the
16 match contribution if the grantee provides the basis for valuing the contribution.

17 (7) The GPA or the grant may identify additional match conditions based on the specific
18 nature of the proposal or ~~agreement~~ grant.

19 **SECTION 51.** DWD 801.09 (1) (intro.) and (a) (intro) are amended to read:

20 DWD 801.09 (1) ALLOWABLE USES. (intro.) A grantee may use grant funds received under
21 this chapter ~~in~~ for any of the following ~~ways~~:

22 (a) (intro.) Developing or implementing curriculum ~~of workforce training programs~~ for
23 projects that are designed to do any of the following:

1 **SECTION 52.** DWD 801.09 (1) (b) is amended to read:

2 DWD 801.09 (1) (b) Developing or implementing a special project that generates creative
3 problem_solving skills, creates a competitive work culture and environment, inspires
4 underachieving workers, increases the productivity of an organization, or facilitates, and
5 encourages the development of individual employees.

6 **SECTION 53.** DWD 801.09 (1) (c) is amended to read:

7 DWD 801.09 (1) (c) Renting capital equipment as specified and approved in the grant
8 agreement.

9 **SECTION 54.** DWD 801.09 (1) (d) is created to read:

10 DWD 801.09 (1) (d) Paying administrative costs, except as provided in sub. (3).

11 **SECTION 55.** DWD 801.09 (2) (title) is amended to read:

12 DWD 801.09 (2) (title) ~~NONALLOWABLE~~ UNALLOWABLE USES.

13 **SECTION 56.** DWD 801.09 (2) (intro.) is amended to read:

14 DWD 801.09 (2) (intro.) A grantee may not use grant funds received under this chapter ~~in~~ for
15 any of the following ways:

16 **SECTION 57.** DWD 801.09 (2) (g) and (h) are created to read:

17 DWD 801.09 (2) (g) Purchase of capital equipment.

18 (h) Pre-existing training programs.

19 **SECTION 58.** DWD 801.09 (3) is amended to read:

20 DWD 801.09 (3) **LIMIT ON ADMINISTRATIVE COSTS.** The department may limit the amount
21 of grant funding that a grantee may spend on administrative costs to ~~a percentage no higher~~ more
22 than ~~5%~~ 10% of the total project ~~budget~~ costs reimbursed by the department under the grant.

23 **SECTION 59.** DWD 801.09 (4) is repealed.

1 **SECTION 60.** DWD 801.10 (intro.) is renumbered DWD 801.10 (1m) (intro.) and, as
2 renumbered, is amended to read:

3 DWD 801.10 **Amount of grants. (1m)** (intro.) ~~The~~ Subject to subs. (3) and (4), the amount
4 of a grant shall be based on the following:

5 **SECTION 61.** DWD 801.10 (1) is renumbered DWD 801.10 (1m) (a).

6 **SECTION 62.** DWD 801.10 (2) is renumbered DWD 801.10 (1m) (b) and, as renumbered, is
7 amended to read:

8 DWD 801.10 **(1m)** (b) The amount of match ~~identified~~ contributions by the applicant ~~and~~
9 under s. DWD 801.08 that are approved by the department.

10 **SECTION 63.** DWD 801.10 (4) is amended to read:

11 DWD 801.10 **(4)** No grantee may receive more than \$400,000 in any combination of grants
12 during a calendar year. This subsection does not apply to a grantee serving as an applicant for a
13 consortium of placement partners under s. DWD 801.05 (1) (c).

14 **SECTION 64.** DWD 801.11 (1) and (2) are amended to read:

15 DWD 801.11 **(1)** A grantee ~~receiving a grant under this chapter~~ shall submit to the
16 department data and information on the use and effect of the grant funds as specified in this section
17 and in ~~the~~ any grant guidelines issued under s. DWD 801.05 (3) (d). The grantee shall authorize
18 the department to audit and inspect its records and to use business data for administrative purposes.

19 **(2)** ~~The~~ A grantee shall submit quarterly Bureau of Labor Statistics multiple worksite survey
20 forms.

21 **SECTION 65.** DWD 801.11 (3) (intro.) and (a) are amended to read:

22 DWD 801.11 **(3)** (intro.) ~~The~~ As specified in a grant, a grantee shall report all of the
23 following:

1 (a) The ~~Θ*Net~~ O*NET occupation code for each trainee.

2 **SECTION 66.** DWD 801.11 (3) (c) to (g) are amended to read:

3 DWD 801.11 (3) (c) The number of trainees initially enrolled in the ~~program~~ project,
4 identified by social security number and status at the time of enrollment as an unemployed worker,
5 an underemployed ~~employee, a student~~ worker, or an incumbent employee.

6 (d) For each ~~enrollee~~ trainee who is employed at the time of enrollment, whether the ~~enrollee~~
7 trainee is an employee of one of the ~~grant~~ placement partners and the hourly wage of the ~~enrollee~~
8 trainee.

9 (e) For each ~~enrollee~~ trainee who is an unemployed worker at the time of enrollment, whether
10 the ~~enrollee~~ trainee has obtained employment during the training, or within a specified time period
11 after the successful completion of the training, whether the employment obtained is with one of
12 the ~~grant~~ placement partners, and the hourly wages of the newly employed worker.

13 (f) The number of trainees, identified by social security number, that successfully complete
14 the training, and the status of the trainees at the completion of the ~~program~~ project as an
15 unemployed worker, underemployed, ~~student~~ worker, or incumbent employee.

16 (g) For each ~~enrollee~~ trainee who was an underemployed worker at the time of enrollment,
17 whether the ~~enrollee~~ trainee has obtained new employment, whether any new employment is with
18 a ~~grant~~ placement partner, and whether the new employment has provided an increased wage or
19 increased hours of work.

20 **SECTION 67.** DWD 801.12 (intro.) is amended to read:

21 DWD 801.12 **Assurances and certifications.** (intro.) Each grantee shall assure and certify
22 that the grantee and its contractors are in compliance with all of the following ~~terms of this section~~:

23 **SECTION 68.** DWD 801.12 (3) and (4) are amended to read:

1 DWD 801.12 (3) NONDISCRIMINATION AND EQUAL OPPORTUNITY. In accordance with s.
2 16.765, Stats., the grantee may not discriminate in violation of state or federal law and shall follow
3 equal employment opportunity practices in the administration and delivery of ~~program~~ project
4 services and benefits to eligible applicants and participants.

5 (4) ADEQUATE AND DOCUMENTED SYSTEMS. The grantee shall have adequate and
6 documented administrative, personnel, financial, and ~~program~~ project management systems,
7 including the policies, procedures, and controls necessary to ensure effective and efficient use of
8 funds and reporting of how funds are used for the delivery of ~~programs under this chapter~~ projects.

9 **SECTION 69.** DWD 801.13 (1) to (3) are amended to read:

10 DWD 801.13 (1) GRANT RECORDS. ~~The~~ A grantee shall maintain grant records; and provide
11 access to the records when requested by the department, ~~and cooperate with monitoring and~~
12 ~~auditing activities of the department.~~

13 (2) RETENTION. ~~The~~ A grantee shall retain grant records for at least three years after the
14 conclusion of the grant.

15 (3) INVOICES. ~~The~~ A grantee shall submit invoices for reimbursement in accordance with
16 procedures established by the department.

17 **SECTION 70.** DWD 801.13 (4) is created to read:

18 DWD 801.13 (4) MONITORING AND AUDITS. A grantee shall cooperate with any monitoring
19 and auditing activities of the department related to the grant activities or grant expenditures,
20 including providing the department with any requested records or information and, at the request
21 of the department, appearing before the department to respond to any questions about the grant
22 activities or grant expenditures.

- 1 Section **71**. EFFECTIVE DATE. This rule shall take effect on the first day of the month
- 2 following publication in the Wisconsin administrative register, as provided under s. 227.22 (2)
- 3 (intro.), Stats.

Signed this ____ day of _____, 2022.

Amy Pechacek, Secretary-designee