

Chapter Comm 114

WISCONSIN MINORITY BUSINESS FINANCE PROGRAM

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Note: Chapter DOD 14 was renumbered chapter Comm 114 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498.

Comm 114.01 Purpose. The purpose of this chapter is to establish a procedure for the administration of minority business early planning and development projects by the department as provided by subch. VII, ch. 560, Stats.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; emerg. am. eff. 4-1-91; am. Register, August, 1991, No. 428, eff. 9-1-91; am. Register, January, 1996, No. 481, eff. 2-1-96.

Comm 114.02 Definitions. In this chapter:

(1) "Application" means a proposal from an eligible recipient or local development corporation which contains all the elements required in s. Comm 114.04 or 114.05.

(2) "Board" means the minority business development board as defined in s. 15.155, Stats.

(3) "Department" means the department of commerce.

(4) "Development project" has the meaning contained in s. 560.80 (2), Stats.

(5) "Early planning project" has the meaning contained in s. 560.80 (3), Stats.

(6) "Eligible development project costs" means the costs of working capital, machinery and equipment, land and building acquisition, existing business acquisition and related expenses that, in accordance with good business and financial practices, are appropriately incurred in connection with a development project.

(7) "Eligible recipient" has the meaning contained in s. 560.80 (5), Stats.

(8) "Financial audit" has the meaning contained in s. Comm 106.81 (6).

(9) "Financing is unavailable from any other source on reasonably equivalent terms" means either of the following:

(a) Financing has been declined for the development or early planning project.

(b) The maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available from the Wisconsin minority business finance program.

(10) "Job" has the meaning contained in s. 560.80 (6), Stats.

(11) "Local development corporation" has the meaning contained in s. 560.80 (7), Stats.

(12) "Minority business" has the meaning contained in s. 560.80 (8), Stats.

(13) "Minority group member" has the meaning contained in s. 560.36 (1) (f), Stats.

(14) "Project" has the meaning contained in s. 560.80 (11), Stats.

(15) "Working capital" means funds for accounts receivable and inventory necessary to produce a product.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; emerg. cr. (4m), (14g), (14m), (16) and (17), eff. 4-1-91; cr. (4m), (14g), (16) and (17), Register, August, 1991, No. 428, eff. 9-1-91; r. (4m), (14g) and (16), Register, January, 1996, No. 481, eff. 2-1-96.

Comm 114.03 Grant and loan determinations.

(1) The department shall award early planning project grants in accordance with the provisions of this chapter.

(2) The board shall award development project grants and loans in accordance with the provisions of this chapter.

(3) The department shall enter into a contract with each eligible recipient of an early planning grant awarded by the department, with each eligible recipient and local development corporation awarded a development project grant or loan by the board.

(4) The board shall determine the relevant terms of development grant and loan contracts entered into under sub. (3) in accordance with pars. (a) and (b).

(a) Grant and loan terms shall be designed to make the business project viable.

(b) Grant and loan terms for grants and loans made under s. Comm 114.05 shall be designed to maintain a development project fund.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; emerg. am. (2), (3) and (4) (intro.), eff. 4-1-90; am. (2), (3), (4) (intro.) and (b), Register, August, 1991, No. 428, eff. 9-1-91; am. (4) (b), Register, February, 1994, No. 458, eff. 3-1-94; am. (2), (3), (4) (intro.), and (b), Register, January, 1996, No. 481, eff. 2-1-96.

Comm 114.04 Early planning project grants. (1) An application by an eligible recipient for an early planning project grant shall be in such form as the department may require and shall include all of the following:

(a) Each of the items listed in s. 560.82 (2) (a) to (m), Stats.

(b) Any other information the department may require to make a determination in accordance with the provisions of this chapter and subch. VII, ch. 560, Stats.

(2) The department may not award a grant under this section unless, after considering the application and any other information it deems relevant, the department determines that the proposed early planning project meets the requirements of s. 560.84 (1) (a), (b) 1., (c), (d), (e) 1., (g) (h) and (i), Stats.

(3) The department shall consider pars. (a) to (f) before awarding an early planning grant from the appropriation under s. 20.143 (1) (fm), Stats.

(a) The items contained in s. 560.84 (2) (a) 1., (b) (d) and (e), Stats.

(b) The experience and training of the applicant.

(c) The amount of funds provided by the applicant to the project proposed in the application.

(d) The location of the proposed business in a development zone designated under s. 560.71, Stats. or an area that has high unemployment as defined in s. 560.71 (1) (e) 1., Stats., or low per capita income as defined in s. 560.71 (1) (e) 2., Stats., or both.

(e) The nature of the jobs likely to be created by the applicant and the level of compensation likely to be paid for those jobs.

(f) Whether the proposed business is part of a growth industry.

(4) The department may choose not to award a grant if the proposed early planning project does not compare favorably on the items contained in sub. (3).

(5) Proceeds from a grant made under this section may be used only as provided in s. 560.82 (3), Stats.

(7) Grants under this section may be awarded only to eligible recipients as defined in s. 560.82 (5), Stats.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; am. (3) (intro.), (d) and (7), cr. (3) (g), r. (6), Register, February, 1994, No. 458, eff. 3-1-94; am. (3) (intro.), r. (3) (g), Register, January, 1996, No. 481, eff. 2-1-96.

Comm 114.05 Development project grants and loans. (1) An application by an eligible recipient or a local development corporation for a development project grant or loan shall be in such form as the department may require and shall include all of the following:

(a) Each of the items listed in s. Comm 106.84 (1), (2) (a) to (c), (3), (4), (7) to (9) and (11) to (13).

(b) An explanation of how the proposed development project addresses the standards contained in s. 560.84, Stats.

(c) An explanation of why minority business finance assistance is required.

(d) Any other information the board may require to make a determination in accordance with the provisions of this chapter and subch. VII, ch. 560, Stats.

(2) The board may not award a grant under this section unless, after considering the application and any other information it deems relevant, the board determines that the proposed development project meets the requirements of s. 560.84 (1) (a), (b) 2., (c), (d), (e) 2. and (g) to (j), Stats.

(3) The board shall consider each of the items contained in s. 560.84 (2) (a) 2. to (f), Stats., before awarding a grant or loan under this section and may choose not to award a grant or loan if the proposed development project does not compare favorably on these items.

(4) The board may award a grant or loan under this section to a local development corporation for a development project which meets all of the requirements of this section and which is to be undertaken by a business entity owned by the local development corporation.

(5) Awards by the board to any local development corporation, to any eligible recipient or for any development project may total no more than \$100,000 in a fiscal biennium.

(6) In addition to local development corporations, the board may award grants or loans under this section only to minority group members who are residents of this state or to minority businesses.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90.

Comm 114.06 Contracts. Each successful applicant shall be required to enter into a contract with the department for the purposes of implementing the proposed grant or loan. The contract shall be signed by the secretary of the department and by the chief executive officer of the successful applicant, or by their authorized representatives. The department may void a contract and seek a return of any funds released under the contract for failure by the business to perform its obligations under the contract. Amendments to these contracts may be adopted by the written

consent of both parties. Any relocation from Wisconsin to any other state of the jobs created or retained through the project shall void the contract, and all funds paid to date shall be refunded to the department for use in support of other applications submitted under this chapter. These restrictions apply only to jobs described in the project application provided in s. Comm 114.04 or 114.05, and apply only for a term subject to negotiation between the successful applicant and the department.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; emerg. am. eff. 4-1-91; am. Register, August, 1991, No. 428, eff. 9-1-91; am. Register, January, 1996, No. 481, eff. 2-1-96.

Comm 114.07 Reporting and auditing. Each successful applicant shall be required to provide the department periodic financial and program reports. A financial audit shall be submitted at the end of each development project contract for projects of \$25,000 or more. The cost of the audit may be covered by the project grant or loan. The financial reports, audit and program reports shall be submitted to the department by a date specified in the contract. The financial audit and the program reports become the property of the department and are open to public inspection.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; emerg. am. eff. 4-1-91; am. Register, August, 1991, No. 428, eff. 9-1-91; am. Register, January, 1996, No. 481, eff. 2-1-96.

Comm 114.08 Administration. The department shall be responsible for soliciting applications, reviewing applications, awarding early planning project grants, making recommendations to the board on the disposition of development project grant and loan applications, authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under the terms of this chapter, monitoring project activities, receiving and reviewing the financial reports and program reports submitted under s. Comm 114.07, and for collecting any repayments of grants and loans from successful applicants.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; emerg. am. eff. 4-1-91; am. Register, August, 1991, No. 428, eff. 9-1-91; am. Register, January, 1996, No. 481, eff. 2-1-96.

Comm 114.09 Board operations. The board shall consider the recommendations of the department relating to development project grants and loans. The board shall approve an application before the department may enter into a contract for a development project grant or loan. The department shall maintain records of the board proceedings and provide other staff support as may be necessary to the board.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; emerg. am. eff. 4-1-91; am. Register, August, 1991, No. 428, eff. 9-1-91; am. Register, January, 1996, No. 481, eff. 2-1-96.

Comm 114.10 Application manual. The department shall prepare an application manual which it may update as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

Note: Written instructions for early planning project grant and development project grant and loan applications may be obtained at no charge from the Department of Commerce, Bureau of Minority Business Development, P.O. Box 7970, Madison, Wisconsin 53707

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90.