Chapter Comm 114

WISCONSIN MINORITY BUSINESS FINANCE PROGRAM

Comm 114.01	Purpose.
Comm 114.02	Definitions.
Comm 114.03	Grant and loan determinations.
Comm 114.04	Early planning project grants.
Comm 114.045	Business incubator grants.
Comm 114.05	Development project and revolving loan fund grants and loans.
Comm 114.055	Development finance and education and training grants.
Comm 114.06	Contracts.
Comm 114.07	Reporting and auditing.
Comm 114.08	Administration.
Comm 114.09	Board operations.
Comm 114.10	Application manual.

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, finance projects, education and training projects, and revolving fund 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; am. Register, November, 1998, No. 515, eff. 12–1–98.

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, 114.045, 114.05 or 114.055.

(2) "Board" means the minority business development board as defined in s. 15.155 (3), Stats.

(2m) "Business incubator" has the meaning given in s. 560.038 (1) (a), 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.

(5m) "Education and training project" has the meaning given in s. 560.80 (3m), 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. "Eligible development project costs" does not include entertainment expenses or expenses incurred before the board approves a grant or loan under s. 560.83 or 560.835.

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

(7m) "Finance project" has the meaning given in s. 560.80 (5m), Stats.

(8) "Financial audit" means an audit performed to the requirements and satisfaction of the department.

(9) "Financing is unavailable from any other source on reasonably equivalent terms" means 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" means a minority business, as defined in s. 560.036 (1) (e), that has its principal place of business in this state.

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

(13m) "Nonprofit corporation" has the meaning given in s. 560.038 (1) (b), Stats.

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

(17) "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; am. (1), (2), (6), (9), cr. (2m), (5m), (7m) and (13m), r. and rec. (8) and (12), Register, November, 1998, No. 515, eff. 12–1–98.

Comm 114.03 Grant and loan determinations. **(1)** The department shall award early planning project grants in accordance with the provisions of this chapter.

(1m) The department shall award business incubator grants in accordance with the provisions of this chapter.

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

(2m) The board shall award finance and education and training grants in accordance with the provisions of this chapter.

(3) The department shall enter into a contract with each recipient of an award under this chapter.

(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; cr. (1m) and (2m), am. (2), r. and recr. (3); Register, November, 1998, No. 515, eff. 12–1–98.

Comm 114.04 Early planning project grants. **(1)** 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 applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266–1018.

(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., (f), (g), (h) and (i), Stats.

(3) The department shall consider pars. (a) to (f) before awarding an early planning grant.

(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; r. and recr. (1), am. (2) and (3); Register, November, 1998, No. 515, eff. 12–1–98.

Comm 114.045 Business incubator grants. (1) 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 applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266–1018.

(2) The department may not award more than $100,000 in any fiscal year for incubator projects under s. 560.038, Stats. and not more than $100,000 in any fiscal year for incubator projects under s. 560.039, Stats.

(3) (a) The department may make a grant under sub. (2) only if the applicant agrees to operate the incubator for at least 5 years following receipt of the grant. Should the incubator cease operations during the 5 year period, the department may require repayment as follows:

1. If the incubator ceases operations during the first year, the department may require repayment of up to 100% of the grant funds received.

2. If the incubator ceases operations during the second year, the department may require repayment of up to 80% of the grant funds received.

3. If the incubator ceases operations during the third year, the department may require repayment of up to 60% of the grant funds received.

4. If the incubator ceases operations during the fourth year, the department may require repayment of up to 40% of the grant funds received.

5. If the incubator ceases operations during the fifth year, the department may require repayment of up to 20% of the grant funds received.

(b) If the incubator is sold during the 5 years following receipt of a grant, the applicant shall pay to the department the lesser of that part of the sale price which exceeds the original acquisition cost or the grant amount.

History: Cr. Register, November, 1998, No. 515, eff. 12–1–98.

Comm 114.05 Development project and revolving loan fund grants and loans. (1) 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 applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P.O. Box 7970, Madison, Wisconsin 53707, telephone 608/266–1018.

(2) The board shall make the determinations required under s. 560.84 (1) (a), (b) 2., (c), (d), (e) 2. and 3., and (f) to (j), Stats., before funding a project.

(3) The board shall consider the criteria under s. 560.84 (2) (a) 2. to (f), Stats., before funding a project.

(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.

(4m) The board may award a grant or loan under this section to a local development corporation for a revolving loan fund project which meets all of the requirements of this section and which will benefit minority businesses or minority group members who are residents of this state.

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

(5m) Awards by the board to any local development corporation for development projects or revolving loan fund projects may total no more than $200,000 in a fiscal year.

(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; r. and recr. (1) to (3), cr. (4m) and (5m), am. (5), Register, November, 1998, No. 515, eff. 12–1–98.

Comm 114.055 Development finance and education and training grants. (1) 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 applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266–1018.

(2) The board shall make the determinations required under s. 560.84 (1) (a), (c), (d), (f) to (k), Stats., before funding a project.

(3) The board shall consider the criteria under s. 560.84 (2) (b), (d), and (e), Stats., before funding a project.

History: Cr. Register, November, 1998, No. 515, eff. 12–1–98.

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 person or persons authorized by the applicant to enter into the contract. The contract shall contain default provisions relating to nonperformance of the provisions of the contract. Amendments to these contracts may be adopted by the written consent of both parties.

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; am. Register, November, 1998, No. 515, eff. 12–1–98.

Comm 114.07 Reporting and auditing. Each successful applicant shall be required to provide the department periodic reimbursement documentation and program reports on the project. A financial audit and final program report shall be submitted at the end of each contract. The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the project grant or loan. The reimbursement documentation, audit and program reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, 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; am. Register, November, 1998, No. 515, eff. 12–1–98.

Comm 114.08 Administration. The department shall solicit applications, review applications, award early planning

and business incubator project grants, make recommendations to the board on the disposition of development project, revolving fund, and finance or education and training project grant and loan applications, enter into contracts with successful applicants, authorize payments and otherwise implement contractual obligations entailed in grants or loans made under the terms of this chapter, monitor project activities, receive and review the reimbursement documentation and program reports submitted under s. Comm 114.07, and collect any repayments of 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; am. Register, November, 1998, No. 515, eff. 12–1–98.

Comm 114.09 Board operations. The board shall consider the recommendations of the department relating to development project, revolving fund, and finance or education and training project grants and loans. The board shall approve an application before the department may enter into a contract for a project grant or loan. The department shall maintain records of the board proceedings and provide 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; am. Register, November, 1998, No. 515, eff. 12–1–98.

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.