

## Chapter Trans 2

## ELDERLY AND DISABLED TRANSPORTATION CAPITAL ASSISTANCE PROGRAM

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**Note:** Chapter Trans 2 was created by emergency rule effective March 21, 1978.

**Trans 2.01 Purpose and scope.** The purposes of this chapter are to establish the department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 5310 program, and to prescribe administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. Register, July, 1982, No. 319, eff. 8-1-82; reprinted to correct error, Register, October, 1982, No. 322; am. Register, April, 1993, No. 448, eff. 5-1-93; am. Register, December, 1994, No. 468, eff. 1-1-95; am. Register, October, 1999, No. 526, eff. 11-1-99.

**Trans 2.015 Definitions. (1)** "Application deadline" is the first Monday in February in even numbered years.

**(2)** "Department" means the state department of transportation.

**(2m)** "Eligible applicant" means any applicant that meets eligibility requirements for assistance under the federal sec. 5310 program and is one of the following:

(a) A private, nonprofit organization.

(b) A local public body that satisfies one of the conditions in s. Trans 2.10 (2).

**Note:** Federally recognized tribal governing bodies are also eligible applicants as local public bodies under par. (b), based on s. 20.002 (13), Stats.

**(3)** "Federal sec. 5310 program" means the federal assistance program under 49 USC 5310.

**(5)** "Human service vehicle" means a motor vehicle as defined in s. 340.01 (23g), Stats., that meets the standards in ch. Trans 301.

**(5m)** "Local public body" has the meaning given in s. 85.20 (1) (d), Stats., except as limited by this chapter.

**(6)** "Other transportation providers" include public, private nonprofit and private for-profit businesses or organizations, other than a given applicant, which operate passenger transportation services using the same mode of transportation as an applicant.

**(7)** "Yellow school bus" means a motor vehicle as defined in s. 340.01 (56) (am), Stats., that meets the standards in ch. Trans 300.

**History:** Cr. Register, July, 1982, No. 319, eff. 8-1-82; am. Register, September, 1985, No. 357, eff. 10-1-85; renum. (4) to be (5), cr. (4), Register, February, 1988, No. 386, eff. 3-1-88; renum. (5) to be (6), cr. (5) and (7), Register, January, 1989, No. 397, eff. 2-1-89; cr. (1m), am. (5) and (7), Register, April, 1993, No. 448, eff. 5-1-93; cr. (2m), (5m), am. (3), (4), Register, December, 1994, No. 468, eff. 1-1-95; am. (1), Register, October, 1995, No. 478, eff. 11-1-95; r. (1m) and (4), am. (3), Register, October, 1999, No. 526, eff. 11-1-99; CR 03-007: am. (1) and (2m) (intro.) Register August 2003 No. 572, eff. 9-1-03.

**Trans 2.02 Eligible applicants. (1)** An eligible applicant may apply for capital assistance under s. 85.22, Stats. All applicants shall comply with federal regulations governing the federal sec. 5310 program.

**(2)** State aids administered under this chapter are available only for projects for which applicants received notice of eligibility under 49 USC 5310 after July 1, 1977. Projects that are eligible

for such assistance but do not receive federal moneys due to insufficient federal funds are eligible for state aids under s. Trans 2.03.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. (1), Register, July, 1982, No. 319, eff. 8-1-82; correction under s. 13.93 (2m) (b) 7., Stats., Register, August, 1984, No. 343; am. (1), Register, December, 1994, No. 468, eff. 1-1-95; am. Register, October, 1999, No. 526, eff. 11-1-99.

**Trans 2.03 Capital costs.** Commencing with the highest ranking application as determined under s. Trans 2.06 and to the extent that federal and state moneys are available, the department shall offer to each eligible applicant an amount of state aid such that the sum of federal and state aid received by an applicant does not exceed 80% of estimated capital costs.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. Register, March, 1980, No. 291, eff. 4-1-80; r. and recr. Register, July, 1982, No. 319, eff. 8-1-82.

**Trans 2.04 Coordination.** It is the department's policy to encourage the coordination of elderly and disabled transportation among providers of such services. To that end, each eligible applicant receiving aids under this chapter shall:

**(1)** Make affirmative efforts to coordinate its activities with other service providers in its service area;

**(2)** Include in its application evidence that the proposed project will not duplicate other services;

**(3)** Demonstrate how the proposed project will be integrated with specialized transportation services provided by public transit systems, other federal sec. 5310 program grantees and other transit agencies located within the applicant's service area; and

**(4)** Include in its application evidence that the transportation service proposed for the general elderly and disabled public was designed with the cooperation of the appropriate county committees or commissions on aging and boards created under ss. 51.42 and 51.437, Stats.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78, am. (1), Register, March, 1980, No. 291, eff. 4-1-80; r. (2), renum. (1) (intro.) to (d) to be (intro.) to (4) and am. (2), Register, July, 1982, No. 319, eff. 8-1-82; am. (intro.) and (4), Register, April, 1993, No. 448, eff. 5-1-93; am. (3), Register, December, 1994, No. 468, eff. 1-1-95; am. (3), Register, October, 1999, No. 526, eff. 11-1-99; CR 03-007: am. (2) to (4) Register August 2003 No. 572, eff. 9-1-03.

**Trans 2.045 Private provider participation.** Every application shall include evidence that all other transportation providers in the applicant's service area have been afforded an opportunity to comment on the service which an applicant proposes to furnish with the vehicles to be purchased with assistance under this chapter. This evidence shall include copies of all correspondence between the applicant and other transportation providers, except that the evidence shall include one copy of the notice required under s. Trans 2.05 (1) (d) and a certified list of all other transportation providers to which the notice was mailed rather than copies of all the notices actually mailed. The department may reject an application for failure to comply with this requirement.

**History:** Cr. Register, July, 1982, No. 319, eff. 8-1-82; r. and recr. (2), renum. (3) to be (6), cr. (3) to (5), Register, February, 1988, No. 386, eff. 3-1-88; am. (1) and (4), Register, January, 1989, No. 397, eff. 2-1-89; am. (4), Register, April, 1993, No. 448, eff. 5-1-93; am. (2) (a), (3), (5), Register, December, 1994, No. 468, eff. 1-1-95; am. (1), r. (2) to (6), Register, October, 1999, No. 526, eff. 11-1-99; CR 03-007: am. Register August 2003 No. 572, eff. 9-1-03.

**Trans 2.05 Schedule for preparing applications; filing of original application and copies.** (1) Each application for capital assistance under this chapter shall be considered valid only during the program cycle in which it is submitted. Except as provided in s. Trans 2.06 (3), an applicant for capital assistance shall prepare an application according to the following schedule:

(a) On or before the first Monday in February in even numbered years, the applicant shall submit its completed application to the department.

(b) Not less than 70 days before the application deadline, the applicant shall cause to be published a "Notice to Transportation Providers" in newspapers in the planned service area of the applicant. The notice shall include the applicant's name; the address and phone number of a contact person; a short description of the equipment for which the applicant is applying for a capital grant and the applicant's proposed service area.

(c) Not less than 70 days before the application deadline, the applicant shall submit its completed proposed transportation schedule and budget and shall submit a list of all other transportation providers operating within the applicant's service area to the department.

(d) Not less than 60 days before the application deadline, the applicant shall mail a notice of its intention to request capital assistance under this chapter to all other transportation providers operating within applicant's proposed service area and to the chairperson of the county board for any county in which the applicant proposes to operate.

(2) The department may not grant to any applicant except those permitted under s. Trans 2.06 (3) an extension or waiver of any deadline specified above in sub. (1).

(3) At the same time that an applicant submits its application to the department, it shall also submit copies for review and comment to the department's appropriate district office and to the appropriate intergovernmental review agency in accordance with Presidential Executive Order E. O. 12372. It shall also send a letter offering to submit copies for review and comment to the appropriate area agency on aging, and to the appropriate department of health services' office of policy initiatives and budget. In order to be considered by the department, comments from these agencies must be submitted to the department within 30 days following submission of the application to the department. The department shall give appropriate consideration to review comments.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78, am., Register, March, 1980, No. 291, eff. 4-1-80; r. and recr. Register, July, 1982, No. 319, eff. 8-1-82; am. (1) (a), Register, September, 1985, No. 357, eff. 10-1-85; am. (1) (a) and (b), r. (1) (c) and (d), cr. (1) (c) to (i), Register, February, 1988, No. 386, eff. 3-1-88; correction in (3) made under s. 13.93 (2m) (b) 6., Stats., Register, January, 1989, No. 397; am. (1) (intro.), (d), (g), Register, December, 1994, No. 468, eff. 1-1-95; am. (1) (a), Register, October, 1995, No. 478, eff. 11-1-95; am. (1) (a) to (d) and (3), r. (1) (e) to (i), Register, October, 1999, No. 526, eff. 11-1-99; CR 03-007: am. (1) (intro) to (c), (2) and (3) Register August 2003 No. 572, eff. 9-1-03; correction in (3) made under s. 13.92 (4) (b) 6., Stats., Register March 2012 No. 675.

**Trans 2.055 Request for department review.** (1) A person adversely affected by a violation of s. Trans 2.045, 2.05 or 2.10 may request the department to review an application for capital assistance under this chapter.

**Note:** Specific allegations shall be sent to Director, Bureau of Transit & Local Roads, P.O. Box 7913, Madison, WI 53707-7913, with a copy sent to the affected applicant.

(2) A request for department review under sub. (1) shall be made in writing and shall be filed with the department within 10 days of the application filing deadline in s. Trans 2.05 (1) (a).

(3) If the department receives a request for review of an application for capital assistance under this chapter, the chief of the specialized transit section shall conduct the department review.

(4) In conducting its review, the department may consider only an applicant's compliance with applicable state and federal procedural requirements.

(5) All interested parties shall be given the opportunity to submit written or documentary evidence and written arguments to the department. Interested parties shall provide a copy of any written evidence, arguments, or correspondence submitted to the department to all other parties involved in the department review.

(6) The department shall limit its review to consideration of written or documentary evidence and written arguments. The formal contested case requirements in ch. 227, Stats., are not applicable to this review.

**Note:** A request for Department review under this section is not a contested case as defined in s. 227.01 (3), Stats., and not subject to the contested case hearing requirement in s. 227.42, Stats.

(7) In conducting its review, the department may request interested parties to provide additional written information. The failure of any interested party to provide information requested by the department, or to cooperate with the department in its review, may result in dismissal of a request for review or denial of an application for capital assistance.

(8) The chief of the specialized transit section shall submit a written recommendation to the director of the bureau of transit and local roads, who shall issue a written decision. A copy of the director's decision shall be provided to the applicant and to the person requesting the department review.

(9) The decision of the director of the bureau of transit and local roads shall be the final decision of the department and is not subject to further appeals or judicial review.

**Note:** The Department's decision under this section does not affect a person's substantial interests and is not subject to judicial review under s. 227.52, Stats.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99; CR 03-007: am. (7) and (9) Register August 2003 No. 572, eff. 9-1-03.

**Trans 2.06 Application evaluation.** (1) (a) The department shall use the criteria in sub. (2) to evaluate all applications for aids administered under this chapter and shall place each application in a statewide rank order of priority for distribution of available moneys.

(b) Using the evaluation criteria, point scores will be assigned to each application. A minimum score shall be required for funding consideration.

(2) The evaluation criteria and their relative weighting factors are:

(a) The extent of service coordination through:

1. Evidence of written agreements with other agencies to supply or receive transportation; and
2. Evidence that the applicant agency is willing to structure its activities in order to effect coordinated transportation.

(b) The extent that service can be provided to the general elderly and disabled public through:

1. A capability to provide such service within the project area;
2. The development of a reasonable schedule of service to these nonclient individuals; and
3. Evidence of a financial plan by which to provide this service.

(c) The extent to which transportation needs of elderly and disabled persons are identified through:

1. Estimate of elderly and disabled population and sources or methodology used to derive the figure.
2. Percentage of the elderly and disabled population in need of service and the methodology used to arrive at the percentage.
3. The percentage of the elderly and disabled population which the applicant proposes to serve and how that percentage was derived.
4. How applicant's proposed service will meet the identified needs of the elderly and disabled population.

(d) 1. Evidence of financial capabilities of the applicant in assuring that adequate operating funds will be available to support the proposed project objectives.

2. Evidence of managerial capabilities of the applicant in assuring that adequate personnel, experience, training, safety and other practices will be available to support the project objectives. Applicant experience with previous capital assistance under this chapter may be considered.

(3) If available state and federal aids exceed the amount requested by applications receiving scores at or above the minimum, the department may accept for evaluation and funding consideration additional applications or revised applications for the remaining aids. The department may waive the schedule specified in s. Trans 2.05 (1) and establish alternative deadlines as it determines to be appropriate for applications submitted under this subsection.

**History:** Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. (1) (b) and (2) (d), r. and recr. (1) (a) and (2) (c), cr. (3), Register, July, 1982, No. 319, eff. 8-1-82; correction in (3) made under s. 13.93 (2m) (b) 4., Stats., Register, February, 1988, No. 386, eff. 3-1-88; r. and recr. (2) (c) 1. and 2., cr. (2) (c) 3. and 4., Register, January, 1989, No. 397, eff. 2-1-89; am. (2) (b) (intro.), (c) (intro.), 1., 3. and 4., Register, April, 1993, No. 448, eff. 5-1-93; am. (2) (d), (3), Register, December, 1994, No. 468, eff. 1-1-95; am. (2) (c) 1. and 4., r. (2) (c) 2., renum. (2) (c) 3. to be (2) (c) 2. and (2) (d) to be (2) (d) 1. and am., cr. (2) (c) 3. and (d) 2., Register, October, 1999, No. 526, eff. 11-1-99; CR 03-007: am. (1) (b), (2) (a) 1. and 2., (b) 1. to 3., (c) 1. to 4., (d) and (3) Register August 2003 No. 572, eff. 9-1-03.

**Trans 2.07 Vehicles offered.** Types of vehicles offered under this chapter, equipped as human service vehicles or standard yellow school buses, shall be determined by the department for each grant cycle. Factors including, but not limited to, funding levels, volume of requests, vehicle availability and technological innovations shall be used in the department's determination. No communications equipment shall be offered under this chapter.

**History:** Cr. Register, September, 1990, No. 417, eff. 10-1-90; r. and recr. Register, October, 1999, No. 526, eff. 11-1-99.

**Trans 2.09 Vehicle registration.** A recipient shall at all times maintain human service vehicle, school bus, or municipal registration, as appropriate, on every vehicle purchased in part with assistance under this chapter whether the vehicles are operated by the recipient or by other transportation providers. If a recipient fails to comply with this registration requirement, the department may reassign the vehicles not properly registered to other eligible applicants specified in s. Trans 2.02 (1) and may reject pending or future applications of the recipient for assistance under this chapter.

**History:** Cr. Register January, 1989, No. 397, eff. 2-1-89; renum. from Trans 2.07, Register, September, 1990, No. 417, eff. 10-1-90; renum. from Trans 2.075, Register, April, 1993, No. 448, eff. 5-1-93; am. Register, December, 1994, No. 468, eff. 1-1-95; am. Register, October, 1999, No. 526, eff. 11-1-99.

**Trans 2.10 Local public body applicants. (1) DEFINITION.** In this section, "transportation coordinating committee" means a committee appointed by the county board for coordinating the county's specialized transportation which:

- (a) Includes members representing at least the following:
1. County board;
  2. County aging unit;
  3. County department of social services or county department of human services;
  4. County boards created under s. 51.42 or 51.437, Stats.;
  5. Transportation providers — public, proprietary and non-profit;
  6. Elderly and disabled citizen advocates;
  7. Consumer and agency advocates; and
- (b) Has at least the following duties:

1. Monitor the expenditures of transportation funds being expended on transportation services for the elderly and disabled in the service area;
2. Review passenger transportation plans for the service area;
3. Review and comment on county aid applications under s. 85.21, Stats.;

4. Review and comment on capital assistance applications under s. 85.22, Stats.;

5. Act as an informational resource for local transportation providers regarding the requirements of the Americans with Disabilities Act of 1990, 42 USC 12101 et seq.; and

6. Act on requests by local public bodies to be designated as coordinators of transportation services for elderly and disabled persons for the purpose of becoming eligible for assistance under the federal sec. 5310 program.

(2) **ELIGIBILITY.** In order to apply for capital assistance under s. 85.22, Stats., a local public body shall satisfy one of the following conditions:

(a) Is determined by the department to be eligible for assistance under the federal sec. 5310 program after first certifying to the department that no private, nonprofit organizations as specified in s. Trans 2.015 (2m) are readily available to provide transportation services to elderly and disabled persons in a proposed service area and providing all of the following or similar documentation supporting such certification:

1. Copies of letters sent to all known private, nonprofit organizations specified in s. Trans 2.015 (2m), both within the county wherein such organizations are situated and in adjacent counties, soliciting interest in providing transportation services for elderly and disabled persons in the proposed service area, along with copies of any resulting correspondence.

2. A certified copy of a public notice published in the appropriate official county newspaper soliciting responses from private, nonprofit organizations as specified in s. Trans 2.015 (2m), both within the county wherein such organizations are situated and in adjacent counties, interested in providing transportation services to elderly and disabled persons in the proposed service area, along with copies of any resulting correspondence.

(b) Is approved by the department to be the coordinator of transportation services to elderly and disabled persons in the proposed service area. A local public body shall be approved by the county board and a transportation coordinating committee which satisfies the membership requirements in sub. (1) (a). The department may waive the membership requirements in sub. (1) (a) if the county board provides satisfactory evidence that the county board made a reasonable attempt to include members of all groups identified in sub. (1) (a). The applicant shall provide all of the following or similar documentation to the department verifying such approval:

1. Copies of documentation showing that a transportation coordinating committee approved the local public body as the coordinator of transportation services for elderly and disabled persons in the proposed service area.

2. A certified copy of the resolution, passed by the county board, approving the local public body as the coordinator of transportation services for elderly and disabled persons in the proposed service area.

**History:** Cr. Register, December, 1994, No. 468, eff. 1-1-95; am. (1) (a), (b) 6., (2) (a) (intro.) and (b) (intro.), renum. (1) (a) 3. to 6. to be (1) (a) 4. to 7., cr. (1) (a) 3., Register, October, 1999, No. 526, eff. 11-1-99; CR 03-007: am. (1) (b) 1., 2. and 5. Register August 2003 No. 572, eff. 9-1-03.

**Trans 2.11 Reporting requirements.** All recipients shall maintain records in the manner required by the department for all vehicles purchased with program funds and shall make semi-annual reports on each vehicle as well as special reports as required by the department. If required semi-annual reports are not current at the time of the application filing deadline, the department may deny that recipient's application.

**Note:** The report required by the Department is DOT Form Wisconsin Department of Transportation 1610, Vehicle Operation Semi-Annual Report, and can be obtained from the Bureau of Transit and Local Roads, P.O. Box 7913, Madison, WI 53707-7913.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99.