



State of Wisconsin \ Department of Commerce

FINAL DRAFT of PROPOSED RULES

Rule No.: Comm 108
Relating to: Use of Rapid Response Funds in Economically Depressed Areas of Wisconsin to Preserve Economic Development

DEPARTMENT OF COMMERCE

THE USE OF RAPID RESPONSE FUNDS IN ECONOMICALLY DEPRESSED AREAS OF WISCONSIN TO PRESERVE ECONOMIC DEVELOPMENT

The Department of Commerce hereby proposes an order to adopt rules to renumber ss Comm 108.03 (23) to (25) to (24) to (26), 108.03 (26) to (27) to (28) to (29); to amend ss. Comm 108.06 TABLE 108.06-1, 108.07 (2), 108.07 (6), 108.14 (1) (f), 108.14 (1) (i), 108.14 (1) (j), 108.14 (2) (g), 108.14 (2) (i), 108.14 (2) (j), 108.14 (2) (L), 108.15, Subchapter VII (Title), and 108.24 (1), 108.24 (2) (d), 108.24 (2) (f); and to create ss. Comm 108.03(23), 108.03(27), relating to the deployment of rapid response funds to preserve economic development in Wisconsin.

Analysis of Proposed Rules

Statutory Authority: ss.560.02 (4), 560.04 (2) (j) and 560.045, Stats.
Statutes Interpreted: ss. 560.04 (2) (j) and 560.045, Stats.

Pursuant to s.560.04, Stats., the Department of Commerce (Commerce), as a part of its comprehensive duties involving community development and economic development, administers federal funds in the form of grants to eligible communities related to economic development. Under current rules, the maximum amount of funds that may be awarded to a community is \$1 million per calendar year and the maximum amount that a business may borrow from a local government under the economic development program is also \$1 million during any 5-year period. The timing and dollar limitations specified in the rules are barriers to providing a comprehensive and rapid response to changing economic conditions in a community.

Given the uncertainty inherent in today's marketplace, Commerce would like to maximize the use of federal community development block grant funds to positively impact local economies. Under the rules, as currently structured, Commerce's ability to effectively respond to actual or potential plant closings or relocations in a specific geographical region is limited. The following rule will allow Commerce to respond more rapidly to changing economic conditions.

This rule provides Commerce, working collaboratively with local communities, the ability to quickly respond to changing economic conditions due to potential plant closings, business relocations, layoffs, and other economic factors that could negatively affect the economic conditions in the community and state.

The rules change the measurement from a calendar year to the annual allocation from the federal government for calculating the dollar amount limitations to any local government and eliminates this limitation on awards made that fall under s. Comm108.03 (27).

Section Comm 108.14 (1) (i) is changed to designate "person" rather than "business" because these funds are awarded to a local government and then utilized by a "person". Since a person is the beneficiary of the funds, it has been determined that the person, not the local government, should provide the match.

The limitation of only providing loans has been changed to allow the Department to make grants or loans. This is being changed to give the Department flexibility in using this financial tool and allow the Department the ability to effectively respond to economic development activities.

Other changes include:

1. Section Comm 108.14 (j) 3. is being changed due to the fact that the Department may meet any of three national objectives as identified in 24 CFR Part 570 (Urgent Local Need/Elimination of Slum and Blight/Low and Moderate Income), not just limiting it to the one national objective of benefit to low and moderate income persons through job creation.
2. The definition from business to person is being changed to standardize this definition with other legislation and allow more flexibility.
3. Section Comm 108.15 (1) through (3) is being changed to reflect the way 24 CFR Part 570.482 is written and administered.
4. Section Comm 108.24 is being changed to eliminate the requirement that planning grants be related only to a public facility activity. This will give the Department more flexibility to utilize federal dollars in appropriate ways to stimulate economic development and require matching funds as necessary for the intended plan.

Contact Person

Todd Kearney, Director of Operations and Planning

608-266-6675

SECTION 1. Comm 108.03 (23) through (25) are renumbered Comm 108.03 (24) through (26):

SECTION 2. Comm 108.03 (23) is created to read:

Comm 108.03 (23) “ Person” means an individual, partnership, corporation, nonprofit organization, city, village, town, county, or trustee, including a trustee in bankruptcy.

SECTION 3. Comm 108.03 (26) through (27) are renumbered Comm 108.03 (28) through (29):

SECTION 4. Comm 108.03 (27) is created to read:

Comm 108.03 (27) “Rapid response” means awards to preserve or enhance the economic conditions and the well being of the citizens of an area that would be negatively impacted by actual or potential plant closings, business relocation, layoffs, unemployment, and similar activities.

SECTION 4. Comm 108.06 TABLE 108.06-1 is amended to read:

**Table 108.06-1
ANNUAL DISTRIBUTION OF CDBG FUNDS
BY GRANT PROGRAM**

Grant Program	Percent of CDBG Funds Set Aside
Public facilities program (CDBG-PF)	Up to 75%
Public facilities planning grant <u>Planning grant program</u> (CDBG-PLNG)	Up to 2% <u>10%</u>
Economic development program (CDGB-ED)	Up to 75%
Public facilities economic development program (CDBG-PFED)	Up to 20%
Blight elimination and brownfield redevelopment program (BEBR)	Up to 10%
Emergency grant program (CDBG-EMER)	Up to 5%

SECTION 5. Comm 108.07 (2) is amended to read:

Comm 108.07 (2) (a) The maximum amount of CDBG funds that may be awarded to any local government under the economic development program as specified under subch. III shall be \$1 million per ~~calendar year~~ annual federal allocation.

(b) The maximum amount of CDBG funds that may be borrowed by a ~~business person~~ from any one or more local governments under the economic development program shall be \$1 million during any 5-year rolling period.

(c) Awards made that meet the department’s rapid response criteria as defined in s. Comm 108.03 (27) do not count against the maximum amounts specified in (a) and (b).

SECTION 6. Comm 108.07 (6) is amended to read:

Comm 108.07 (6) (a) ~~The maximum amount of CDBG funds that may be awarded to any local government for a public facilities planning grant as specified under subch. VI shall be \$12,500 per plan in a 12 month period~~ \$25,000 per annual federal allocation.

(b) Awards made that meet the department's rapid response criteria as defined in s. Comm 108.03 (27) do not count against the maximum amounts specified in par. (a).

SECTION 7. Comm 108.14 (1) (f) is amended to read:

Comm 108.14 (1) (f) The ~~business person~~ business person that will benefit from the economic development ~~grant award~~ grant award has the economic ability to repay any funds that are loaned to the ~~business person~~ business person.

SECTION 8. Comm 108.14 (1) (i) is amended to read:

Comm 108.14 (1) (i) ~~The local government and the business~~ Persons that will benefit from the economic development ~~grant award~~ grant award will contribute at least 50% of the total cost of the project from funding sources other than the federal ~~and state governments~~ government.

SECTION 9. Comm 108.14 (1) (j) is amended to read:

Comm 108.14 (1) (j) The local government will use the CDBG funds for one of the following purposes:

1. For a grant or loan to a ~~business person~~ business person that agrees to engage in job creation or retention activities under 24 CFR 570.483 (b) (4) designed to benefit low and moderate income persons.
2. For job training, job placement, child care, transportation or other similar services eligible under 24 CFR 570.483 (b) (2) (v) designed to benefit low and moderate income persons.
3. For other activities eligible under 24 CFR Part 570 ~~that meet the national objectives of benefit to low and moderate income persons through job creation.~~

SECTION 10. Comm 108.14 (2) (g) is amended to read:

Comm 108.14 (2) (g) The willingness of the ~~business person~~ business person to work cooperatively with the department of workforce development, local job service offices and private industry councils to identify and offer full-time job opportunities to low to moderate income persons.

SECTION 11. Comm 108.14 (2) (i) is amended to read:

Comm 108.14 (2) (i) Whether the award will provide the ~~business~~ person with an unreasonable competitive advantage over other similar Wisconsin ~~businesses~~ persons in the vicinity of the project.

SECTION 12. Comm 108.14 (2) (j) is amended to read:

Comm 108.14 (2) (j) Whether the project will involve the relocation of a ~~business~~ person and displacement of jobs from one local government in Wisconsin to another local government in Wisconsin.

SECTION 13. Comm 108.14 (2) (L) is amended to read:

Comm 108.14 (2) ~~(L)~~ (I) Whether the project will result in the elimination of slum and blight.

SECTION 14. Comm 108.15 is amended to read:

Comm 108.15 Job creation and retention requirements. (1) If a local government ~~loans~~ awards the CDBG funds to a ~~business~~ person under s. Comm 108.14 (1) (j) 1., the ~~business~~ person shall execute ~~a loan~~ an agreement and other documents prescribed by the department, committing ~~to repay the loan and~~ to create and full-time equivalent jobs or retain full-time equivalent jobs, or both.

(2) In accordance with 24 CFR Part 570.482 (f) (2), The the aggregate amount of CDBG funds awarded by the department to local governments for economic development projects may not exceed \$20,000 \$35,000 for each full-time equivalent job created and or retained by a business. In accordance with 24 CFR Part 570.482 (f) (4), The the amount awarded to any person shall not exceed \$50,000 for each full-time equivalent job created or retained and depend upon the department's consideration of the factors in s. Comm 108.14 (2) .

(3) The department may require a ~~business~~ person that receives ~~a loan~~ an award under this subchapter to document full-time equivalent job creation and retention with a list of full-time jobs or positions created and retained, the job title for each full-time equivalent job created and retained, job skills, wages and benefits, and any other information the department considers relevant.

SECTION 15. Subchapter VII (Title) is amended to read:

Subchapter VII ~~Public Facilities~~ Planning Grants.

SECTION 16. Comm 108.24 (1) is amended to read:

Comm 108.24 Public facilities Planning grant program. (1) General. (a) The department may make a grant to an eligible local government for preparing a plan for a specific project.

(b) An eligible local government may submit an application for a ~~public facilities~~ planning grant to the department at any time.

~~(c) Only one grant in a 12 month period shall be made to an eligible local government submitting an application under this section.~~

(d)(c) Grant award limits are as specified in s. Comm 108.07 (6).

SECTION 17. Comm 108.24 (2) (d) is amended to read:

Comm 108.24 (2) (d)The local government has a citizen participation plan as required under 24 CFR ~~507.486~~ 570.486 (a).

SECTION 17. Comm 108.24 (2) (f) is amended to read:

Comm 108.24 (2) (f) At least ~~50%~~ 25% of the total cost of the planning shall originate from ~~local revenues~~ sources other than grants provided by the federal or state government. ~~At least half of the local financial participation shall originate from the local government or participating local governments.~~ Awards made that meet the department's rapid response criteria as defined in s. Comm 108.03 (27) do not count against the maximum percentage amount.

(END)