

CR 87-120

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CERTIFICATE

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STATE OF WISCONSIN)
) s.s.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, RONALD R. FIEDLER, Secretary of the Wisconsin Department of Transportation and custodian of the official records do hereby certify that the rule relating to the elderly and handicapped transportation assistance program for private nonprofit organizations was duly approved and adopted by this department on December 17, 1987.

I further certify that this copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 17th day of December, 1987.

for Ronald R. Fiedler, Deputy
RONALD R. FIEDLER, P.E.
Secretary

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IN THE MATTER OF REPEALING s. *
 TRANS 2.05(1)(c) and (d), RE- *
 NUMBERING ss. TRANS 2.015(4) and *
 2.045(3), AMENDING s. TRANS *
 2.05(1)(a) and (b), REPEALING *
 AND RECREATING s. TRANS 2.045 *
 (2), AND CREATING ss. TRANS *
 2.015(4), 2.045(3), (4) and *
 (5) and 2.05(1)(c) to (i), WIS. *
 ADMIN. CODE, RELATING TO THE *
 ELDERLY AND HANDICAPPED TRANS- *
 PORTATION ASSISTANCE PROGRAM *
 FOR PRIVATE NONPROFIT ORGAN- *
 IZATIONS *

ORDER
ADOPTING
RULEAnalysis Prepared by the Wisconsin Department of Transportation

General Summary of Rule. The Wisconsin Department of Transportation (WisDOT) has authority under s. 85.22, Stats., to administer a program providing assistance to private, nonprofit organizations providing transportation services to elderly and handicapped persons. Chapter Trans 2, Wis. Admin. Code, sets forth the administrative policies and procedures for this program.

Under ch. Trans 2, an applicant must provide all other transportation providers operating in its service area written details about the proposed service for which it seeks assistance under ch. Trans 2. This rulemaking repeals that requirement and instead requires an applicant to notify other area transportation providers of its intention to apply for assistance. Under this rulemaking, an applicant must provide detailed information only to those providers that request information in writing. This rulemaking expressly identifies the information that an applicant must provide upon written request from another transportation provider. It also establishes a procedure for WisDOT to review, upon request, an applicant's rejection of another transportation provider's proposal to provide service. Finally, this rulemaking makes some changes in the schedule concerning applications for assistance under ch. Trans 2.

Final Regulatory Flexibility Analysis. This rule change may benefit small businesses that wish to provide transportation service otherwise provided by private, nonprofit organizations.

Fiscal Estimate. This rule change will have no fiscal impact on local public bodies or on the state. No added expenditures or administrative costs will result for either local or state government.

Preparation. This analysis was prepared by Philip Peterson of the Department of Transportation Office of General Counsel (608) 266-8810.

Under authority vested in the state of Wisconsin, department of transportation, by s. 85.16(1), Stats., the department of transportation hereby amends and creates provisions in the administrative rule interpreting s. 85.22, Stats., as follows:

SECTION 1. Trans 2.015(4) is renumbered Trans 2.015(5).

SECTION 2. Trans 2.015(4) is created to read:

Trans 2.015(4) "Grant equipment depreciation schedule" means a schedule prepared in accordance with applicable department directions showing straight-line depreciation for equipment purchased in part with assistance provided under s. 85.22, Stats., and this chapter.

SECTION 3. Trans 2.045(2) is repealed and recreated to read:

Trans 2.045(2) If an applicant receives a written request for additional information about providing service from another transportation provider under s. Trans 2.05(1)(e), the applicant shall provide the requesting other transportation provider the following information at least 40 days before the application deadline set under s. Trans 2.05(1)(a):

(a) A description of the service required under its application for assistance;

(b) Subject to sub. (3), a statement showing the total operating costs incurred, total miles operated and total number of vehicles operated by the applicant to provide transportation ser-

vice during the current and during each of the two preceding years;

(c) A copy of the certificate of insurance showing insurance coverage for the applicant's service operations and a statement showing the insurance levels required of other transportation providers submitting a proposal, provided that the levels required for other transportation providers may be less but may not be more than that shown on the certificate of insurance covering applicant's operations;

(d) A copy of the applicant's grant equipment depreciation schedule prepared in accordance with department depreciation schedule preparation instructions; and

(e) A written statement notifying the requesting other transportation provider of the deadline for submitting a written proposal set by s. Trans 2.05(1)(g).

NOTE: An applicant may obtain a copy of the department of transportation depreciation schedule preparation instructions from the department of transportation, bureau of transit assistance, P.O. Box 7914, Madison, Wisconsin 53707-7914.

SECTION 4. Trans 2.045(3) is renumbered Trans 2.045(6).

SECTION 5. Trans 2.045(3) is created to read:

Trans 2.045(3) If an applicant has provided transportation service only during the current year and the immediately preceding year, the statement required under sub. (2)(b) shall cover only the current and the immediately preceding years. If an applicant has provided service only during the current year or has provided

no service during the 3-year period identified in sub. (2) (b), the statement required under sub. (2) (b) shall consist of estimates, with supporting explanations, of the total operating costs that will be incurred for and the total miles that will be traveled by the equipment for which the applicant seeks assistance in the first year of its use by the applicant.

SECTION 6. Trans 2.045(4) and (5) are created to read:

Trans 2.045(4) If an applicant receives a service proposal from another transportation provider, the applicant shall determine whether that proposal specifies available, sufficient and appropriate service to meet the applicant's service needs. The applicant shall develop criteria for considering service proposals from other transportation providers. The applicant's criteria shall include a cost comparison and shall include other appropriate considerations, including service quality and continuity, financial and management ability and relevant experience. Based upon those criteria, the applicant shall determine whether to accept or reject the proposal. If an applicant rejects a proposal, its rejection letter to the other transportation provider shall include the signature of the chairperson of applicant's board of directors and the signature of at least one other member of its board of directors.

(5) Any other transportation provider whose service proposal is rejected by an applicant may request review of that rejection by the department. The department shall use a fully allocated cost method in resolving differences between an applicant and

another transportation provider. If after a requested review the department concludes that an applicant should not have rejected another transportation provider's proposal, the department shall deny that applicant's application for assistance under this chapter.

SECTION 7. Trans 2.05(1)(a) and (b) are amended to read:

Trans 2.05(1)(a) On or before the first Monday in November, the applicant shall submit its completed application to the department's appropriate district office, except that the 1988 application deadline under this paragraph shall be April 4, 1988, rather than the first Monday in November 1987;

(b) Not less than 70 days before the application deadline, publish the applicant shall cause to be published a "Notice to Transportation Providers" in newspapers likely to give notice 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; and the date by which another transportation provider must request additional information under par. (e);

SECTION 8. Trans 2.05(1)(c) and (d) are repealed.

SECTION 9. Trans 2.05(1)(c) to (h) are created to read:

Trans 2.05(1)(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 appropriate department district office;

(d) Not less than 60 days before the application deadline, the applicant shall mail a notice of its intention to request 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 applicant proposes to operate;

(e) Not less than 50 days before the application deadline, any other transportation provider operating within applicant's proposed service area may in writing request additional information from applicant as provided for under s. Trans 2.045(2);

(f) Not less than 40 days before the application deadline, the applicant shall provide any other transportation provider submitting a request under par. (e) the additional information enumerated in s. Trans 2.045(2);

(g) Not less than 20 days before the application deadline, another transportation provider may submit to the applicant an appropriate written proposal for the applicant to consider under s. Trans 2.045(3);

(h) Not less than 7 days before the application deadline, the applicant shall have considered any proposal received under par. (g), shall make the determination and shall communicate that determination as is required under s. Trans 2.045(3); and

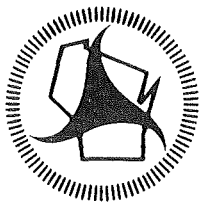
(i) Any other transportation provider seeking department review of an applicant's determination made under s. Trans 2.045(3) shall request that department review under s. Trans 2.045(4) not more than 7 days after the application deadline.

(END OF RULE TEXT)

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2) (intro.), Stats.

Signed at Madison, Wisconsin, this
17th day of December, 1987.

for Donald H. Janghender, Deputy
Ronald R. Fiedler, P.E.
Secretary
Wisconsin Department of
Transportation



Wisconsin Department of Transportation

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OFFICE OF GENERAL COUNSEL
4802 Sheboygan Avenue
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Madison, WI 53707-7910
Telephone: (608) 266-8810

December 17, 1987
OGC 87-59

Mr. Gary Poulson
Assistant Revisor of Statutes
30 West Mifflin Street
Suite 702
Madison, Wisconsin 53703

RE: Clearinghouse Rule 87-120
In the Matter of Rulemaking Affecting Trans 2,
Wisconsin Administrative Code, Relating to the
Elderly and Handicapped Transportation
Assistance Program for Private Nonprofit
Organizations.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of CR 87-120, an administrative rule relating to the elderly and handicapped transportation assistance program for private nonprofit organizations. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

A handwritten signature in cursive script that reads "Philip Peterson".

Philip Peterson
Deputy General Counsel

PPP:meh

Enclosure

cc: Tom Walker
John Evans
Skip Schneider
John Hartz
Frank Potts