

## 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. 16 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.

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

**(1m)** "Cash grant" means a cash grant made by the department to an applicant of up to 80% of eligible capital costs for the purchase of a human service vehicle or yellow school bus by the applicant as provided for under this chapter.

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

**(2m)** "Eligible applicant" means any applicant that meets eligibility requirements for assistance under the federal sec. 16 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. 16 program" means the federal assistance program under 49 USC 1612 (b) (2).

**(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 capital assistance provided under s. 85.22, Stats.

**(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.

**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. 16 program. In addition to being eligible for assistance under

the federal sec. 16 program, an applicant shall, at the time it applies for capital assistance, have legal authority to contract or subcontract with any other transportation provider in its proposed service area, unless it is prohibited from subcontracting by its contracts with agencies of county government. An applicant which is prohibited in this way from subcontracting shall be eligible to apply for capital assistance only if the contracts which prohibit it from subcontracting were publicly bid and open to all transportation providers.

**(2)** State aids administered under this chapter are available only for projects for which applicants received notice of eligibility under 49 USC 1612 (b) (2) 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.

**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 provided under s. 85.21, Stats.;

**(3)** Demonstrate how the proposed project will be integrated with specialized transportation services provided by public transit systems and previous federal sec. 16 program grantees 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 agencies, such as 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.

**Trans 2.045 Opportunity for competition. (1)** Every application shall include evidence that all other transportation providers in the applicant's service area have been afforded a competitive opportunity to furnish the service which an applicant proposes to furnish with the vehicles to be purchased with aid under this chapter. In each case where an applicant provides this opportunity to other transportation providers, the evidence shall in-

clude 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 evidence shall also include copies of all proposals received by the applicant from other transportation providers. All notifications and correspondence from an applicant to other transportation providers shall be conducted by certified return-receipt mail. The department may reject an application for failure to comply with this requirement.

(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 capital 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 service during the current and during each of the 2 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, P.O. Box 7914, Madison, Wisconsin 53707-7914.

(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 capital assistance in the first year of its use by the applicant.

(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 whether the service will be provided with human service vehicles or yellow school buses, 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 capital assistance under this chapter.

(6) An applicant which is denied authority to subcontract by its contracts with county agencies shall include in its application certifications by those agencies that the contracts were publicly bid and open to all other transportation providers. The department may reject an application for failure to include these certifications.

**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.

**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 annual 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 within 120 days prior to the application deadline according to the following schedule:

(a) On or before the first Monday in February, the applicant shall submit its completed application to the department's appropriate district office;

(b) Not less than 70 days before the application deadline, 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; the applicant's proposed service area; and the date by which another transportation provider must request additional information under par. (e);

(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 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;

(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 (4);

(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.

(2) The department shall 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 the original manuscript of its application to the department's appropriate district office, it shall also submit copies for review and comment to the appropriate intergovernmental review agency in accordance with Presidential Executive Order E. O. 12372, to the appropriate area agency on aging, and to the appropriate department of health and social services' division of community services' regional office. In order to be considered by the department, comments from these agencies must be submitted to the department's appropriate district office within 15 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.

**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 of 100 points (of a possible 270) is 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 (0-30 points); and

2. Evidence that the applicant agency is willing to structure its activities in order to effect coordinated transportation (0-45 points).

(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 (0-15 points);

2. The development of a reasonable schedule of service to these nonclient individuals (0-30 points); and

3. Evidence of a financial plan by which to provide this service (0-30 points).

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

1. Estimate of elderly and disabled population (0-15 points);

2. Sources of population estimate in subd. 1. or methodology used to derive the estimate (0-15 points);

3. Percentage of the elderly and disabled population in need of service and the proportion which the applicant proposes to serve (0-30 points); and

4. Evidence that existing service is not adequate to meet the needs of the elderly and disabled population (0-15 points).

(d) Evidence of financial and managerial capabilities of the applicant in assuring that adequate operating funds and practices will be available to support the proposed project objectives. Applicant experience with previous federal sec. 16 program capital assistance grants may be considered (0-45 points).

(3) If available state and federal aids exceed the amount requested by applications receiving scores at or above the minimum specified in sub. (1), 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; correc-

tion 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.

**Trans 2.07 Vehicles offered.** Small, medium and large school bus type vehicles, equipped as either human service vehicles or standard yellow school buses, and 15-passenger vans, equipped as human service vehicles, shall, subject to the availability of funds, be offered under this chapter. The specification and equipment options to be offered with the vehicles shall be determined by the department. A list of such specification and equipment options shall be included with the application booklet provided to each applicant by the department. No application for a vehicle other than one of the 3 school bus type vehicles or a 15-passenger van shall be considered by the department. The vehicles offered under this chapter may be modified as approved by the department or as required by law. Such vehicle modifications may include wheelchair lifts and securements or raised roofs and doors. No communications equipment shall be offered under this chapter.

**History:** Cr Register, September, 1990, No. 417, eff. 10-1-90.

**Trans 2.08 Cash grant option.** (1) An applicant eligible for funding under this chapter may, upon request, receive a cash grant in lieu of receiving a vehicle from the department. The applicant shall, under the cash grant option, be responsible for purchasing its own vehicles and for handling all vehicle acquisition functions. No review or approval services shall be provided by the department for the various acquisition activities undertaken by the applicant after being approved for a cash grant. All applicants regardless of grant approval date are eligible for cash grant consideration provided the department has not already entered into purchase agreements on behalf of such applicants.

(2) Cash grants awarded under this section shall only be used toward the purchase of vehicles as set forth in sub. (3), and such grant amounts shall be supplemented by recipient funds in amounts sufficient to make payment in full at the time of approved vehicle inspection and acceptance by the grantee. Grant recipients shall be responsible for all vehicle costs in excess of the cash grant. A cash grant may not be assigned to a third party by a grantee.

(3) Applicants choosing the cash grant option shall purchase the vehicles specified in s. Trans 2.07, but the size limitations for school bus type vehicles of small, medium and large shall not be applicable. The vehicle specifications in s. Trans 2.07 will be the basis of the determination of the cash grant amount, but applicants may exceed the specifications in s. Trans 2.07 at their own expense.

(4) Vehicles purchased through the cash grant option shall either be full-sized passenger vans (standard 15-passenger production models or modified versions of the same) or school bus type vehicles designed with a capacity of 16 or more passengers. In addition, each vehicle is required to be equipped with heavy-duty components such as alternator, battery, tires, suspension, cooling or heating system, and such other components as may be required by the department.

(5) Grantees shall follow all purchasing requirements specified by the department in its program application booklet. Such purchasing requirements shall include adherence to all applicable state and federal laws, competitive bidding requirements as specified by the department, and adherence to applicable human service vehicle or yellow school bus construction and inspection requirements, including chs. Trans 300 and 301. In its contract with each grantee, the department shall describe all such requirements and shall provide in appropriate form such additional information as deemed necessary for grantee compliance purposes. No grant expenditures shall be deemed eligible unless all department requirements have been satisfactorily met. A grantee shall be re-

quired to reimburse the department for the full amount of a cash grant if the vehicle purchased by the grantee fails to initially pass the applicable inspection requirements.

(6) All vehicles purchased through the cash grant option shall be subject to the registration provisions in s. Trans 2.09.

(7) The department shall retain the right to audit all expenditures undertaken by the recipients with cash grants issued by the department. This may include the records of all parties to such transactions. Audits shall be conducted in accordance with generally accepted governmental auditing standards.

**History:** Cr. Register, April, 1993, No. 448, eff. 5-1-93.

**Trans 2.09 Vehicle registration.** A grantee under the federal sec. 16 program shall at all times maintain human service vehicle or school bus registration, as appropriate, on every vehicle purchased in part with aids under s. 85.22, Stats., and this chapter whether the vehicles are operated by the grantee or by other transportation providers. If a grantee fails to comply with this registration requirement, the department may reassign the vehicles not properly registered by the grantee to other eligible applicants specified in s. Trans 2.02 (1) and may reject pending or future applications of the grantee for aids under s. 85.22, Stats.

**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.

**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) Has 10 or more members representing at least the following:

1. County board;
2. County aging unit;
3. County boards created under s. 51.42 or 51.437, Stats.;
4. Transportation providers—public, proprietary and nonprofit;
5. Elderly and disabled citizen advocates;
6. 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 service areas;
2. Review passenger transportation plans for service areas;
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. 16 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. 16 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 after first being so approved by a transportation coordinating committee and the county board and providing 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.