

Chapter Comm 106

WISCONSIN DEVELOPMENT FUND

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Note: Chapter DOD 6 was repealed and recreated by emergency rule effective 5-18-83. Chapter DOD 6 was renumbered chapter Comm 106 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. Sections Comm 106.01 to 106.34 were repealed, Register, October, 1997, No. 502, eff. 11-1-97. See ch. Comm 108 for replacement rules.

Subchapter IV — Customized Labor Training Fund

Comm 106.40 Purpose. The purpose of this subchapter is to establish the procedure for the administration of labor training fund grants or loans by the department of development, as provided by s. 560.63, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.405 Policy and plan. (1) APPLICABILITY. The provisions of this section apply to this subchapter, subchs. V and VII and those provisions which relate to the recycling loan program.

(2) POLICY STATEMENT. As the state economic development agency, the department shall administer and coordinate economic and business development programs to foster investment, job creation, and diversification of the state's economy. The department shall provide financial and technical assistance to businesses for economic development, labor training, recycling, and technology related projects. The department shall place special emphasis on the financing needs of small businesses, women and minority owned businesses, and firms located in targeted areas of the state. Through the use of the Wisconsin development fund, the department shall seek to maximize the use of limited funds by leveraging private investment and utilizing other sources of available funds.

(3) BIENNIAL PLAN. The department shall develop and submit funding goals to the board for awarding grants and loans that allocate available funds for economic development, labor training, recycling and technology related projects for each fiscal biennium. The board shall consider the recommendations of the department based upon grant and loan criteria as provided in s. 560.605, Stats., and the goals established by other state administered financial assistance programs. Following board approval and before the commencement of each odd-numbered fiscal year the department shall submit the goals to the governor and chief clerk of each house.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93.

Comm 106.41 Definitions. The definitions in this section apply only in this subchapter.

(1) "Application" means a proposal from an eligible applicant as specified in s. Comm 106.42 containing all elements required in s. Comm 106.46.

(2) "Board" means the development finance board as defined in s. 15.155 (1), Stats.

(3) "Business" means a company located in this state, a company which has made a firm commitment to locate a facility in this state or a group of companies at least 80% of which are located in this state.

(4) "Department" means the department of commerce.

(5) "Financial audit" means an audit performed in accordance with the standards adopted by the American institute of certified public accountants on the revenues and expenditures made in association with a grant or loan under this fund.

(6) "Financing is unavailable from any other source on reasonably equivalent terms" means any of the following:

(a) Financing has been declined for the major economic development project.

(b) 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 development fund.

(7) "Fund" means the labor training fund.

(8) "Job" means a position providing full-time equivalent employment for one individual for one year, beginning after a project is completed. It does not include initial training before an employment position begins.

(9) "Occupational classification" means a type of job for which the department of workforce development has certain descriptive specifications and maintains vacancy rate information on a substate regional basis which may be obtained from a local Wisconsin job service office.

(10) "Program report" means a report to the department describing progress made toward achieving goals specified under s. Comm 106.46.

(11) "Training" means to teach or to demonstrate skills necessary for successfully performing a task associated with a product, process or service of a business.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88

Comm 106.42 Eligible applicants. Any business that has made a firm commitment to locate in Wisconsin, a business that is expanding within Wisconsin, or a business that is upgrading a product, process or service that requires training in new technology and industrial skills for its employes may apply for a grant or loan under this subchapter.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.43 Eligible providers. Applicant businesses may provide the training funded under the program utilizing their own resources, another business, a consultant or contractor, a local vocational, technical and adult education school, or a public or private secondary or post-secondary school.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.44 Grant and loan amounts and restrictions. (1) The amount of funding for a project and a determination as to whether the project will be funded as a grant or loan will be at the discretion of the board. Insofar as it is practical, the board will require repayment of the funds plus a reasonable return on the investment. The repayment provisions shall be determined on a case-by-case basis by the board.

(2) As provided by s. 560.63 (3), Stats., funds shall not be available for any of the following costs incurred by a vocational, technical and adult education district or by a public secondary or post-secondary institution:

(a) The cost, incurred before the beginning of the labor training program, of recruiting program instructors.

(b) The cost of developing a labor training program curriculum.

(c) The cost of recruiting, screening and counseling program trainees.

(d) The cost of a financial audit.

(e) The cost of renting instructional equipment and training facilities owned or leased by the district or institution, unless the equipment or facilities are rented only for the labor training program.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.45 Match requirements. The applicant shall provide a match for the grant or loan received. The match shall be in cash and shall not be less than 50% of the value of the training provided if the project for which funding is requested is located outside a targeted area. Up to 20% of the contribution of a participating business may consist of funds which the business receives under the federal job training partnership act, 29 USC 1501 to 1781.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1992, No. 433, eff. 2-1-92.

Comm 106.46 Application content. Applications from eligible businesses shall be submitted to the department. Each application shall contain all of the following:

(1) A description of a training program which details the kind of specialized training to be provided, the number of trainees, the name and qualifications of the proposed provider, the equipment and the facilities needed, and the location and duration of the proposed training.

(2) An explanation of why Wisconsin development fund assistance is needed.

(3) A statement, including supporting documentation, that the applicant is financially sound.

(4) An itemized estimate of the proposed cost of the training and a description of the proposed cash or in kind match.

(5) A statement guaranteeing a job in the state of Wisconsin for those successfully completing the training program supported by the proposed grant or loan.

(6) An explanation of how the proposed training project addresses the standards established in s. Comm 106.47.

(7) A statement that the proposed training is not available to the applicant through the applicant's existing training programs and that the training will not supplant training provided by any other federal, state or local public or private program.

(8) A plan for conducting a financial audit of the grant and for submitting program reports to the department on the results of the training.

(9) A statement that job orders for new hires will be placed with the Wisconsin job service, and that, to the extent possible, new hires will be recruited through the job service.

(10) A statement regarding the repayment of the grant or loan including proposed terms.

(11) Documentation from a financial institution that financing is unavailable from any other source on reasonably equivalent terms.

(12) Employers shall document job creation and job retention with a list of jobs or positions that specifies job titles, the number of full-time equivalent positions to be filled or retained under each title, job skills and wages or salaries both before and after the proposed training.

(13) Other information as may be required by the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.47 Evaluation criteria. (1) The board shall determine the following before funding a project:

(a) That the project serves a public purpose.

(b) That the project will retain or increase employment in this state.

(c) That the project is not likely to occur in this state without the grant or loan.

(d) That financing is unavailable from any other source on reasonably equivalent terms.

(e) That funds from the grant or loan under this subchapter will not be used to pay overhead costs or to replace funds from any other source.

(f) That the project will not displace any workers in this state.

(2) The board shall consider the following before funding a project:

(a) The extent to which the project will contribute to the economic growth of this state and the well-being of the residents of this state.

(b) Whether the project will be located in an area of high unemployment or low average income.

(c) The financial soundness of the business.

(d) The intention of the eligible recipient to repay the grant or loan.

(e) The ratio of state dollars requested to the number of jobs created or retained by the project.

(f) The ratio of the annual wages resulting from the project to the state dollars requested.

(g) The ratio of capital investment to the state dollars requested.

(h) The ratio of the state dollars requested to the private dollars committed to the project.

(i) The extent to which the business exports goods or services outside state borders.

(j) The likely economic benefits of the project compared with the public costs of the project.

(k) The extent to which the project is likely to contribute to the growth of existing Wisconsin businesses or is likely to spur the creation of new Wisconsin business.

(L) Whether the project is in a targeted area based on the following indices.

1. The level of unemployment in the area.
2. The average household income in the area.
3. The percentage of households in the area receiving aid to families with dependent children under s. 49.19, Stats.
4. The rate of decline in the population in the area.
5. The reduction of property values in the area.
6. The number of workers in the area that have been permanently laid off by their employers or the existence of public notice by an employer of either a plant closing or a substantial reduction in work force that will result in a significant number of workers in the area being laid off permanently.
7. Designation of the area as a development zone under s. 560.71, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; cr. (2) (l), Register, January, 1992, No. 433, eff. 2-1-92.

Comm 106.48 Contracts. Successful applicants shall be required to enter into a contract with the department for the purpose of implementing the proposed grant or loan. The contracts shall be signed by the secretary of development and the chief executive officer of the business, or by their authorized representatives. The department may void a contract and seek a return of funds released under the contract for failure by the business to perform its obligations under the contract. Amendments to these contracts may be adopted by the consent of both of the original signatories. However, no change may be authorized if the jobs for which the training is provided are to be moved out of state or the job classification or the skill levels are to be downgraded. Any relocation from Wisconsin to any other state of the jobs for which the training is provided or any change in the job classifications or skill level involved shall void the contract and all funds paid to date shall be refunded to the department for use in support of other applications to the fund. These restrictions apply only to jobs described in the training application provided in s. Comm 106.46 and apply only for a term subject to negotiation between the successful applicant and the department.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.49 Reporting and auditing. Successful applicants will be required to provide the department periodic financial and program reports. A financial audit and final program report shall be submitted at the end of the contract. The cost of the audit may be covered by the grant or loan except as provided under s. Comm 106.44 (2) (d). The financial reports, audit and the program reports shall be submitted to the department as specified in the contract. The financial audit and the program reports become the property of the department and are open to public inspection.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.50 Administration. The department shall be responsible for soliciting applications for the fund, reviewing applications, making recommendations to the board on the disposition of applications, authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under the terms of this subchapter, monitoring the provision of the training, receiving and reviewing the financial reports and program reports submitted under s. Comm 106.49 and for collecting any repayments of grants and loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.51 Board operations. The board shall consider the recommendation of the department relating to the criteria under s. Comm 106.47. The board shall approve an application before the department can enter into a contract under the terms of

the fund. The department shall maintain records of its proceedings and provide other staff support as may be necessary to the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1992, No. 433, eff. 2-1-92.

Subchapter V — Technology Development

Comm 106.60 Purpose. The purpose of this subchapter is to establish the procedure for the administration of technology development grants and loans and technology development follow-up loans by the department, as provided by ss. 560.605 and 560.62, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Comm 106.61 Definitions. In this subchapter:

(1) "Application" means a proposal from an eligible applicant as specified in s. Comm 106.62 (1) or (2) containing all applicable elements required in s. Comm 106.65.

(2) "Board" has the meaning provided in s. 560.60 (1s), Stats.

(3) "Business" has the meaning provided in s. 560.60 (2), Stats.

(4) "Consortium" has the meaning provided in s. 560.60 (3), Stats.

(5) "Department" means the department of development.

(6) "Financial audit" means an audit performed to the satisfaction of the department.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means any of the following:

(a) Financing has been declined for the project.

(b) 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 development fund.

(8) "Fund" means the technology development fund.

(9) "Higher educational institution" has the meaning provided in s. 560.60 (8), Stats.

(10) "Job" has the meaning provided in s. 560.60 (10), Stats.

(11) "Program report" means a report to the department describing the results of the project supported by a technology development grant or loan or technology development follow-up loan.

(12) "Project" has the meaning provided in s. 560.60 (14), Stats.

(13) "Royalty" means a share of future profits from, or an interest in, a product or process.

(14) "Targeted area" means an area identified under s. 560.605 (2) (f) and (2m), Stats.

(15) "Technology development follow-up loan" means a loan made under this subchapter as described in s. Comm 106.62 (2).

(16) "Technology development fund" means the total of all grant and loan funds awarded under s. 560.62, Stats., and this subchapter.

(17) "Technology development grant or loan" means a grant or loan made under this subchapter as described in s. Comm 106.62 (1).

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Comm 106.62 Eligible applicants. (1) Any consortium with a proposed technical research project that is intended to result in the development of a new, or the improvement of, an existing industrial product or process may apply for a technology development grant or loan under this subchapter.

(2) Any business which, as part of a consortium, received funding under s. Comm 106.63 and which, with such funding,

developed a new or improved an existing industrial product or process may apply for a technology development follow-up loan under this subchapter.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Comm 106.63 Grant and loan amounts. (1) Wisconsin development funds expended or encumbered under this subchapter in any fiscal year for grant or loan projects located outside a targeted area may not exceed 40% of the total budgets of all grant and loan projects located outside a targeted area which are awarded grants or loans under this subchapter.

(2) A determination as to whether a technology development fund project shall be funded as a grant or loan shall be at the discretion of the board. Insofar as it is practical, the board shall require repayment of technology development fund loans and technology development follow-up loans plus a reasonable return on the investment. The repayment provision shall be determined on a case by case basis by the board.

(3) The proceeds of a technology development follow-up loan may be used only to pay those costs identified in s. 560.62 (1) (b) and (2m), Stats., and only in accordance with the terms of the contract required under s. Comm 106.67. The terms and conditions of each technology development follow-up loan, including repayment terms, shall be determined on a case by case basis by the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. (1), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Comm 106.64 Match requirements. (1) The consortium shall provide a match for the technology development grant or loan received. The match shall not be less than 25% of the value of the research project. The board may establish a higher match requirement to the extent that the financial documentation in the application indicates the ability on the part of the consortium to finance a greater share of the project.

(2) The business shall provide a match for the technology development follow-up loan received. The match shall not be less than 25% of the cost of the project. The board may require a higher match to the extent that the financial documentation in the application indicates the ability on the part of the business to finance a greater share of the project.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. (2), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Comm 106.65 Application content. (1) Each technology development grant and loan application shall be in such form as the department may require and shall contain all of the following:

(a) The composition of the consortium including the location of the businesses and the higher educational institution and the extent of participation of each in the consortium.

(b) A written agreement specifying all of the following:

1. The ownership of any patents or licenses which result from the technical research.

2. Dissemination of information relating to the technical research.

3. The responsibilities of persons conducting the technical assistance.

(c) A timetable for completion of grant or loan supported activities.

(d) A description of the new product or process and of the research and development activities to be supported by the consortium and a budget for those activities.

(e) An estimate of the potential benefit to the economy of the state of Wisconsin in terms of new jobs, increased productivity,

expansion into new markets inside or outside the state or the initiation of new enterprises within the state.

(f) An explanation of why Wisconsin development fund assistance is needed.

(g) A description of the proposed match to be provided by the business.

(h) A schedule for repayment of the funds.

(i) A pledge by the applicant business to maintain operations in the state after completion of activities supported by the grant or loan.

(j) A summary of related research indicating the uniqueness of the proposed research and development activities.

(k) An explanation of how the proposed project addresses the standards under s. Comm 106.66.

(L) A plan for evaluating and reporting on the effectiveness of the activities supported by the award as measured by the production or introduction of a new process or of a saleable new product into the market and for reporting progress in completing activities described in the timetable.

(m) Documentation from a financial institution that financing is unavailable from any other source on reasonably equivalent terms.

(n) Other information the board may require to make a determination under this subchapter and s. 560.62, Stats.

(2) Each technology development follow-up loan application shall be in such form as the department may require and shall contain all of the following:

(a) An analysis of the need for funds for the production, marketing or sales of the new or improved product or process resulting from a technology development grant or loan project.

(b) A market analysis which shows demand for the product or process.

(c) Any other information the department may require to make a determination in accordance with the provisions of this subchapter and s. 560.62, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. February, 1994, No. 461, eff. 6-1-94.

Comm 106.66 Evaluation criteria. (1) The board shall determine that the project meets the requirements of ss. 560.605 (1) (a) to (h) and 560.62 Stats., before making a technology development grant or loan.

(2) The board shall consider the following before making a technology development grant or loan:

(a) Each of the items contained in s. 560.605 (2) (a) to (f), (4), (5) and (5m), Stats.

(b) The extent to which the business pledges to maintain operations in this state after completion of the technical research supported by grant or loan funds.

(c) The technical soundness of the proposed research.

(d) The degree to which technological developments likely to come from the proposed research will be used in and be of benefit to the economy of this state.

(e) The time frame for repayment of the grant or loan funds and the amount of any additional royalties.

(f) The likely economic benefits of the project compared with the public cost of the project.

(g) The extent to which the project is likely to contribute to the growth of existing Wisconsin businesses or is likely to spur the creation of new Wisconsin businesses.

(3) The board shall determine that the project meets the requirements of ss. 560.605 (1) (a) to (h) and 560.62, Stats. before making a technology development follow-up loan.

(4) The board shall consider the following before making a technology development follow-up loan:

- (a) Each of the items contained in s. 560.605 (2) (a) to (f), (4), (5) and (5m), Stats.
- (b) The market for the product or process.
- (c) The competition in the market for the product or process.
- (d) The potential commercial success of the product or process.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; cr. (2) (n), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Comm 106.67 Contracts. Each successful applicant shall enter into a contract with the department for the purpose of implementing the proposed grant or loan under this subchapter. Each contract shall be signed by the secretary of development and the chief executive officer of the eligible recipient, or by the authorized representative of the eligible recipient. The department may void a contract and seek a return of any funds released under the contract for failure by the grant or loan recipient to perform its obligations under the contract.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Comm 106.68 Reporting and auditing. A successful applicant for a grant or loan under this subchapter shall provide the department periodic financial and program reports. A financial audit and final program report shall be submitted at the end of each contract. The cost of the audit may be covered by the grant or loan. The financial audit and the program reports become the property of the department and are open to public inspection.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, eff. 6-1-94.

Comm 106.69 Administration. The department is responsible for soliciting applications from eligible applicants; reviewing applications; making recommendations to the board on the disposition of applications; entering into contracts with successful applicants; authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under this subchapter; receiving the financial reports and program reports submitted under s. Comm 106.68 and for collecting any repayments of loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the technology development fund program.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Comm 106.70 Board operations. The board shall consider the recommendation of the department relating to the criteria under s. Comm 106.66. The board shall approve an application before the department can enter into a contract for a grant or loan under this subchapter. The department shall maintain records of its proceedings and provide other staff support as may be necessary to the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Subchapter VI — Major Economic Development Fund

Comm 106.80 Purpose. The purpose of this subchapter is to establish a procedure for the administration of major economic development grants or loans by the department of development, as provided by s. 560.62, 560.63 or 560.66, Stats., that are funded under s. 20.143 (1) (d), Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.81 Definitions. The definitions in this section apply only in this subchapter.

(1) "Application" means a proposal from an eligible applicant as specified in s. Comm 106.82 containing all elements required in s. Comm 106.84.

(2) "Board" means the development finance board as defined in s. 15.155 (1), Stats.

(3) "Business" means a company located in this state, a company which has made a firm commitment to locate a facility in this state or a group of companies at least 80% of which are located in this state.

(4) "Consortium" means an association of a business and a higher educational institution or the Great Lakes composites consortium, which association is subject to an agreement complying with this chapter.

(5) "Department" means the department of commerce.

(6) "Financial audit" means an audit performed in accordance with the standards adopted by the American institute of certified public accountants on the revenues and expenditures made in association with a grant or loan under this fund.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means any of the following:

(a) Financing has been declined for the major economic development project.

(b) 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 development fund.

(8) "Governing body" means a county board, city council, village board, town board, regional planning commission or transit commission under s. 59.967 or 66.943, Stats.

(9) "Higher educational institution" means any of the following:

(a) The university of Wisconsin system.

(b) An institution which is located in this state and offers a post-baccalaureate or professional degree program.

(10) "Job" means a position providing full-time equivalent employment for one individual for one year, beginning after a project is completed. It does not include initial training before an employment position begins.

(11) "Local infrastructure" means the real property, buildings and improvements owned, constructed, managed, or operated by a political subdivision.

(12) "Major economic development project" means a project to which any of the following applies:

(a) The program [project] is necessary to retain a significant number of jobs in a political subdivision.

(b) The project is necessary to significantly increase the number of jobs in a political subdivision.

(c) The project will lead to significant capital investment in this state by a business.

(d) The project will make a significant contribution to the economy of this state.

(13) "Political subdivision" means a county, city, town or village.

(14) "Project" means a business development that increases the productivity of a business or its employees in this state, leads to significant capital investment in a business in this state, leads to the retention of existing jobs in this state or creates new jobs in this state.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. (4), Register, January, 1992, No. 433, eff. 2-1-92.

Comm 106.82 Eligible applicants. Any business, consortium, nonprofit business development organization as defined in s. 560.60 (12), Stats. or governing body that is not eligible for a grant or loan under subchs. IV and V may apply for a grant or loan under this subchapter.

Note: Written instruction for technology development, technology-based incubator and applied research in technology grant and loan applications may be obtained at no charge from the Department of Commerce, Bureau of Development Finance, P.O. box 7970, Madison, Wisconsin 53707.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and rec. Register, February, 1991, No. 422, eff. 3-1-91.

Comm 106.83 Match requirements. Applicants shall provide a match for the grant or loan received. The match shall be in cash and shall be a minimum of 25% of the projected cost. The board may establish a higher match requirement. A determination as to whether the project will be funded as a grant or loan will be at the discretion of the board. Insofar as it is practical, the board will require repayment of the funds plus a reasonable return on the investment. The repayment provisions shall be determined on a case-by-case basis by the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am Register, January, 1992, No. 433, eff. 2-1-92.

Comm 106.84 Application content. Applications from eligible applicants shall be submitted to the department. Each application shall contain all of the following:

(1) The name, address and designated contact person of the eligible applicant.

(2) A description of the proposed project, including all of the following:

(a) The location and duration of the project

(b) The number of jobs to be created or retained.

(c) The value of the capital investment which the eligible applicant will make in the project.

(d) The value of the expenditures required for local infrastructure relating to the project.

(e) The immediate and continuing effects of the project upon the political subdivisions within which it will be located.

(3) A statement, including supporting documentation, that the applicant is financially sound.

(4) An itemized estimate of the proposed cost of the project and a description of the proposed match.

(5) An explanation of how the proposed project addresses the standards established in s. Comm 106.85.

(6) An explanation of why Wisconsin development fund assistance is required.

(7) Statements that funding is not available at reasonably equivalent terms from any other source, that any state funds received under this subchapter will not replace funds from any other source, and that the project is not likely to take place without the grant or loan.

(8) A statement that the proposed project will not displace any workers in Wisconsin.

(9) A plan for conducting a financial audit of the grant or loan and for submitting program reports to the department on the results of the project.

(10) A statement that job orders for new hires will be placed with the Wisconsin job service, and that, to the extent possible, new hires will be recruited through the job service.

(11) A statement regarding the repayment of the grant or loan including proposed terms.

(12) Documentation from a financial institution that financing is unavailable from any other source on reasonably equivalent terms.

(13) Employers shall document job creation and job retention with a list of jobs or positions that specifies job titles, the number of full-time equivalent positions to be filled or retained under each title, job skills and wages or salaries.

(14) For applicants requesting \$1 million or more of funds, the following additional information shall be supplied.

(a) An explanation as to how this project fosters the short-term and long-term economic growth of this state.

(b) An explanation of each of the other alternatives the applicant has explored for financing the project.

(c) A discussion of possible risks associated with the project and a comparison of those risks with the benefits to the state for providing the assistance.

(d) A discussion of any residual benefits to the state if the specified project benefits are not attained.

(e) An explanation of any undesirable effects the project may have on the environment, land use policies, public and private utility services and adjacent residential, commercial or industrial areas.

(f) A detailed explanation of all the assumptions used in arriving at the information provided under s. Comm 106.84.

(15) Other information as may be required by the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.85 Evaluation criteria. (1) The board shall determine the following before funding a project:

(a) That the project serves a public purpose.

(b) That the project will retain or increase employment in this state.

(c) That the project is not likely to occur in this state without the grant or loan.

(d) That financing is unavailable from any other source on reasonably equivalent terms.

(e) That funds from the grant or loan under this subchapter will not be used to pay overhead costs or to replace funds from any other source.

(f) That the project will not displace any workers in this state.

(2) The board shall consider the following before funding a project:

(a) The extent to which the project will contribute to the economic growth of this state and the well-being of the residents of this state.

(b) Whether the project will be located in an area of high unemployment or low average income.

(c) The financial soundness of the applicant.

(d) The intention of the eligible recipient to repay the grant or loan.

(e) The ratio of state dollars requested to the number of jobs created or retained by the project.

(f) The ratio of the annual wages resulting from the project to the state dollars requested.

(g) The ratio of capital investment to the state dollars requested.

(h) The ratio of the state dollars requested to the private dollars committed to the project.

(i) The extent to which the business exports goods or services outside state borders.

(j) The unemployment and poverty rates of the political subdivision in which the project is located, if available.

(k) The likely economic benefits of the project compared with the public costs of the project.

(L) The extent to which the project is likely to contribute to the growth of existing Wisconsin businesses or is likely to spur the creation of new Wisconsin business.

(m) The value of the expenditures required for local infrastructure relating to the major economic development project.

(n) The immediate and continuing effects of the major economic development project upon the affected political subdivisions within which it will be located.

(o) Whether the project is in a targeted area based on the following indices.

1. The level of unemployment in the area.

2. The average household income in the area.

3. The percentage of households in the area receiving aid to families with dependent children under s. 49.19, Stats.

4. The rate of decline in the population in the area.

5. The reduction of property values in the area.

6. The number of workers in the area that have been permanently laid off by their employers or the existence of public notice by an employer of either a plant closing or a substantial reduction in work force that will result in a significant number of workers in the area being laid off permanently.

7. Designation of the area as a development zone under s. 560.71, Stats.

(3) In awarding grants and loans under this section, the board may consider the effects of the project upon jobs, school, transportation, and law enforcement services and facilities.

(4) On projects where the applicant is requesting \$1 million or more of funds, the board shall also consider the information provided under s. Comm 106.84 (14).

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; cr. (2) (o), Register, January, 1992, No. 433, eff. 2-1-92.

Comm 106.86 Contracts. Successful applicants shall be required to enter into a contract with the department for the purpose of implementing the proposed grant or loan. The contracts shall be signed by the secretary of development and the chief executive officer of the successful applicant, or by their authorized representatives. The department may void a contract and seek a return of any funds released under the contract for failure by the business to perform its obligations under the contract. Amendments to these contracts may be adopted by the consent of both of the original signatories. Any relocation from Wisconsin to any other state of the jobs created or retained through the project shall void the contract, and all funds paid to date shall be refunded to the department for use in support of other applications to the Wisconsin development fund. These restrictions apply only to jobs described in the project application provided in s. Comm 106.84, and apply only for a term subject to negotiation between the successful applicant and the department.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.87 Reporting and auditing. Successful applicants will be required to provide the department periodic financial and program reports. A financial audit and final program report shall be submitted at the end of the contract. The cost of the audit may be covered by the grant or loan. The financial reports, audit and the program reports shall be submitted to the department by a date specified in the contract. The financial audit and the program reports become the property of the department and are open to public inspection.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.88 Administration. The department shall be responsible for soliciting applications, reviewing applications, making recommendations to the board on the disposition of applications, authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under the terms of this subchapter, monitoring project activities, receiving and reviewing the financial reports and program reports submitted under s. Comm 106.87, and for collecting any repayments of grants and loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.89 Board operations. The board shall consider the recommendations of the department relating to the criteria under s. Comm 106.85. The board shall approve an application before the department can enter into a contract under s. Comm 106.86. The department shall maintain records of the board's pro-

ceedings and provide other staff support as may be necessary to the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1992, No. 433, eff. 2-1-92.

Subchapter VII — Small Business Innovation Research Bridge Financing

Comm 106.90 Purpose. The purpose of this subchapter is to establish the procedure for the administration of a small business innovation research bridge financing program by the department of development, under the provisions of s. 560.625, Stats., which authorizes the department to award research grants and loans to small businesses.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.91 Definitions. In this subchapter:

(1) "Application" means a proposal from an eligible applicant as specified in s. Comm 106.92 containing all elements required by s. Comm 106.96.

(2) "Board" means the development finance board as defined in s. 15.155 (1), Stats.

(3) "Bridge award" means an award made by the department of development to a small business which has submitted a proposal for a Phase II award under the federal small business innovation research program.

(4) "Business" means a company operating for profit, which is either incorporated in Wisconsin or has Wisconsin as the principal place of business, and which has 250 or fewer employees, including employees of any subsidiary or affiliated organization.

(5) "Consumable item" means any item used and consumed as part of the scope of work available which no longer exists or which has no useful value at the end of the work effort and for which an invoice is available.

(6) "Department" means the department of commerce.

(7) "Financial audit" means an audit performed in accordance with the standards adopted by the American Institute of Certified Public Accountants on the revenues and expenditures made in association with a grant or loan made under this subchapter.

(8) "Overhead" means any expense incurred for the normal conduct of business, but which, for practical reasons, is not allocated to a specific task.

(9) "Phase I award" means an award made by a federal agency to a small business to conduct a feasibility study under the federal small business innovation research program.

(10) "Phase II award" means an award made by a federal agency to a small business to further develop the results of Phase I research under the federal small business innovation research program.

(11) "Program report" means a report to the department describing progress made toward achieving goals specified under s. Comm 106.96.

(12) "Small business innovation research program" means the federal program, enacted pursuant to 15 USC 638, which provides funds to small businesses to conduct innovative research having commercial application.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.92 Eligible applicants. A business shall be eligible for a bridge award if it is a recipient of a Phase I award, has completed its Phase I research, has submitted a proposal for a Phase II award, intends to perform the research work primarily in Wisconsin and meets the applicable grant and loan eligibility criteria set forth in s. 560.605, Stats.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.93 Award amounts. The bridge awards may not exceed \$40,000 nor cover more than 12 months of work effort.

The board may consider the following factors in determining the actual award amount:

- (1) Whether the business is applying for more than one bridge award and whether the business is currently receiving bridge financing
- (2) The financial need of the business for the bridge award.
- (3) The potential commercial application and economic benefits to Wisconsin of the research results.
- (4) The follow-on funding commitment for further development of the commercial potential after Phase II.
- (5) The participation in the research work by a Wisconsin institution of higher education.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.94 Repayment of bridge awards. The bridge award, plus a reasonable return on the investment as determined by the board, shall be repaid to the Wisconsin development fund upon commercialization of the research conducted under the small business innovation research program.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.95 Match requirements. The business shall provide a match equal to 25% of the bridge award received. The match shall be in cash or in kind.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.96 Application contents. Applications submitted to the department shall contain all of the following:

- (1) A copy of the final Phase I report, after it has been submitted to the federal agency.
- (2) A copy of the Phase II proposal, after it has been submitted to the federal agency.
- (3) A brief scope of work, including a timetable, covering the research activities to be performed with the bridge award. This work shall be related to the small business innovation research program and may include, but is not limited to, research into new applications of the technology developed under Phase I and research which represents an extension of the Phase I work but which is distinct and nonduplicative of the proposed Phase II work.
- (4) A project budget, including a description of the proposed match to be provided by the business.
- (5) Evidence that the project meets the criteria set forth in s. 560.605, Stats.
- (6) A statement that the business intends to perform the research work primarily in Wisconsin.
- (7) Other information as may be required by the department.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.97 Eligible and ineligible expenditures. (1) The following expenditures are eligible for funding:

- (a) Salaries of research personnel who will be engaged in the research activity supported by the bridge award and in the Phase II research project.
- (b) Other expenditures which are directly related to the research activity supported by the bridge award and which are segregated from other research activities. These expenditures

may include, but are not limited to, consumable items and the use of equipment.

- (2) Travel and overhead are not eligible for funding.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.98 Reporting. (1) The business shall submit quarterly reports to the department which include a brief description of accomplishments over the previous three-month period, and a project financial report covering the previous three-month period.

(2) The business shall submit a final report to the department which includes the following:

(a) A discussion of research methodology, successful and unsuccessful technical approaches, accomplishments achieved and research conclusions.

(b) A one paragraph abstract of the project and its results, suitable for publication.

(c) A project financial report and a financial audit of the bridge award.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

Comm 106.99 Administration. (1) The application, and accompanying reports, shall be reviewed to determine:

(a) Whether the Phase I final report and Phase II proposal were properly submitted to the federal agency.

(b) Whether the conclusions of the Phase I final report support the continuation of the research effort.

(c) Whether the proposed state funded research is directly related to the small business innovation research program. The proposed state funded research shall be considered to be related if it includes either research into new applications of the technology developed under Phase I or research which represents an extension of the Phase I work but which is distinct and non-duplicative of the proposed Phase II work.

(d) Whether the project meets the criteria set forth in s. 560.605, Stats.

(e) Whether the business intends to perform the research work primarily in Wisconsin.

(2) Successful applicants shall be required to enter into a contract with the department for the purpose of implementing the proposed bridge award. The contract shall be signed by the secretary of development and the chief executive officer of the eligible recipient, or by their authorized representatives.

(3) The bridge award shall terminate when any of the following occur:

(a) The maximum bridge award amount awarded under the contract has been expended.

(b) The time limit for bridge award support under the contract has been reached.

(c) The end of the business week in which the effective date of the Phase II grant or contract occurs.

(d) The end of the business week in which the business is notified of the denial of the Phase II award.

(e) The department determines that the work performed or to be performed with the bridge award is inconsistent with the application.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.