

SECTION 1. Comm 132.40 Note is created to read:

Comm 132.40 Note: See chapter Comm 205 for additional requirements relating to (1) contracts between the Department and recipients of economic-development grants, loans or tax credits; (2) submittal of statements for such grants and loans; and (3) penalties for submitting false or misleading information, or for failing to comply with the terms of a contract.

[Note to Legislative Reference Bureau: Insert an identically worded Note at the end of each of the following sections: Comm 106.49, 106.68, 106.87, 108.02, 110.08, 111.09, 113.07, 114.07, 115.09, 116.07, 117.07, 119.09, 127.06, 129.03, 131.50 and 133.10.]

SECTION 2. Chapter Comm 205 is created to read:

Chapter Comm 205

STATEMENTS AND PENALTIES FOR GRANT AND LOAN PROGRAMS, AND PENALTIES FOR TAX CREDIT PROGRAMS

Comm 205.10 Purpose, scope and authority. (1) The purpose and scope of this chapter is to implement the provisions of s. 560.01 (2) (ae), Stats., that relate to statements and penalties for each of the economic-development grant or loan programs administered by the department, and penalties for each of the economic-development tax credit programs administered by the department.

(2) This chapter is promulgated under the authority of s. 560.01 (2) (ae) 6. and 7., Stats.

Comm 205.20 Definitions. In this chapter:

(1) “Contract” includes a written agreement that establishes responsibilities which a recipient will fulfill with regard to the department’s terms and conditions of an award.

(2) “Department” means the department of commerce.

(3) “Recipient” means the direct beneficiary of a grant or loan or tax credit that is issued or authorized by the department under an economic development program as defined in s. 560.001 (1m), Stats.

Note: Section 560.001 (1m) of the Statutes reads as follows: “ ‘Economic development program’ means a program or activity having the primary purpose of encouraging the establishment and growth of business in this state, including the creation and retention of jobs, and that satisfies all of the following:

(a) The program receives funding from the state or federal government that is allocated through an appropriation under ch. 20.

(b) The program provides financial assistance, tax benefits, or direct services to specific industries, businesses, local governments, or organizations.”

Comm 205.30 Contracts. The recipient’s authorized director or principal officer shall enter into a contract with the department on behalf of the recipient, for each grant, loan or tax credit, prior to receiving allocation of the grant, loan or tax credit.

Comm 205.40 Statements for grants and loans. (1) For each grant or loan, the recipient's authorized director or principal officer shall sign and submit to the department a statement on behalf of the recipient, that contains all of the following:

(a) Itemized description and accounting of the department's funding, including the dollar amount and what the funds were used for.

(b) Itemized description and accounting of the match funding as defined in the recipient's contract with the department, including the dollar amount and what the funds were used for.

(c) Detailed description of all deliverables as specified in the recipient's contract with the department and the date on which these deliverables were met.

(2) The signature in sub. (1) shall attest to the accuracy, completeness and validation of all of the submitted information.

(3) Each statement submitted under sub. (1) for a grant or loan that totals \$100,000 or more shall also be signed by an independent certified public accountant licensed or certified under ch. 442, Stats., attesting to the accuracy of the information specified in sub. (1) (a).

(4) The statement required in this section shall be prepared and submitted in accordance with the format and timeline specified in the recipient's contract with the department.

Comm 205.50 Penalties for grants, loans and tax credits. (1) The department may impose any of the following penalties on a recipient who submits false or misleading information or who fails to comply with the terms of a contract and fails to explain the noncompliance to the satisfaction of the department:

(a) The department may recoup payments made to the recipient.

(b) The department may withhold payments to be made to the recipient.

(c) The department may impose a forfeiture on the recipient.

(2) Any penalties imposed under sub. (1) shall be in accordance with any terms prescribed in the recipient's contract with the department.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall become effective on the first day of the month commencing after the date of publication in the Wisconsin administrative register.

File reference: Comm 205/rules 2009ph