

SECTION 1. Chapter Comm 106 is repealed and recreated to read:

Chapter Comm 106

WISCONSIN DEVELOPMENT FUND

Comm 106.10 Purpose. The purpose of this chapter is to establish the procedure for the administration of grants and loans by the department as provided under ss. 20.143 (1) (c) and 560.61, Stats.

Comm 106.15 Policy and plan. (1) APPLICABILITY. The provisions of this section apply to this chapter and subch. V of ch. 560, Stats.

(2) POLICY STATEMENT. As this state's primary economic development agency, the department shall administer and coordinate economic and business development programs to foster investment, job creation or retention, and diversification of the state's economy. The department shall provide financial and technical assistance to businesses for economic development, training, and technology-related projects. 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 funding goals for awarding grants and loans that allocate available funds for economic development, training, and technology-related projects for each fiscal biennium. Before the commencement of each odd-numbered fiscal year, the department shall submit the goals to the governor and chief clerk of each house of the legislature. The goals shall be established through a process that includes consideration of all of the following:

- (a) Changing economic conditions.
- (b) New or evolving needs identified by business clients.
- (c) Availability of other economic resources.

Comm 106.20 Definitions. In this chapter:

(1) "Application" means a proposal from an eligible applicant as specified in s. Comm 106.25 and containing all of the elements required in s. Comm 106.35.

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

Note: Section 560.60 (2) of the Statutes reads as follows: " '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."

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

(4) "Project" means a business development activity 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.

(5) "Project report" means a report to the department describing progress made toward achieving goals.

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

Comm 106.25 Eligible applicants and activities. (1) Any business proposing to undertake a project in this state that involves one or more of the following is eligible for funding under this chapter:

(a) Capital financing.

(b) Worker training.

(c) Entrepreneurial development.

(d) Providing assistance to technology-based businesses or to businesses at a foreign trade show or event.

(e) Providing working capital.

(f) 1. Converting existing manufacturing facilities to the production of renewable energy or the manufacturing of equipment used in the production of renewable energy.

2. Any grants under this paragraph shall be awarded before July 1, 2011; and the total amount of these grants may not exceed \$2,000,000.

(g) Other activity determined to contribute to the economic vitality of this state.

(h) Other activity prescribed by the legislature as being eligible.

(2) Any individual creating a new business under s. 560.203, Stats., is eligible for a loan under this chapter, within the parameters specified in that section.

Note: Section 560.203 of the Statutes addresses microloans which are (1) limited to two high unemployment areas in Wisconsin, as designated by the Department; (2) capped at \$25,000 each; and (3) unavailable after July 31, 2013. For further information about these two designated areas, contact the Department of Commerce, Bureau of Business Development, at P. O. Box 7970, Madison, Wisconsin 53707, or telephone 608/266-1018 or Contact Through Relay.

Comm 106.30 Priority. Projects with the highest potential for fostering investment, job creation or retention, or diversification of the state's economy shall have the highest priority for funding. Factors to be considering in determining this potential include all of the following:

- (1) Projections of job creation and retention.
- (2) Capital investment.
- (3) Short-term and long-term employment impact in an area or statewide.
- (4) An applicant's presence in this state.

Comm 106.35 Application manual. (1) The department shall prepare an application manual that may be updated as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

- (2) The application process shall occur on a continuous basis, as funds are available.
- (3) The application process shall seek to obtain details about key project parameters including employment impacts, capital investment and the financial background of the applicant.

Note: The application manual may be obtained at no charge from the Department of Commerce, Bureau of Business Development, at P.O. Box 7970, Madison, Wisconsin 53707, or telephone 608/266-1018 or Contact Through Relay.

Comm 106.40 Grant and loan amounts and restrictions. (1) The department shall determine whether a project will be funded and determine the amount of funding for the project in accordance with the biennial plan prepared under s. Comm 106.15 (3).

(2) The department may consider the criteria under s. 560.605 (1) and (2m), Stats., before funding a project.

(3) The department shall determine conditions applicable to a grant or loan under s. 560.61, Stats. Any reimbursement provisions shall be determined on a case-by-case basis by the department and specified in the contract executed under s. Comm 106.50.

Note: Section 560.605 (7) of the Statutes requires the Department to award at least 35 percent of the total amount of grants and loans made under this chapter to businesses in distressed areas. Distressed area is defined there as an area to which any of the following apply:

- (1) The area has a high level of unemployment.
- (2) The area has a low median household income.
- (3) A significant number of workers in the area have been permanently laid off.
- (4) An employer in the area has given public notice of a plant closing or a substantial reduction in force that will result in a significant number of workers in the area being permanently laid off.
- (5) As determined by the department, the area is affected by another factor that indicates the area is a distressed area.

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 be not less than 25% of the eligible project costs established in the contract executed under s. Comm 106.50. The department 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.

Comm 106.50 Contracts. Successful applicants shall enter into a contract with the department for the purpose of implementing the proposed grant or loan. The contract shall be signed by the secretary of the department, or their designee, and the person or persons authorized by the applicant to enter into a contract. The contract shall include default provisions relating to nonperformance of the provisions of the contract.

Comm 106.55 Reporting and auditing. Successful applicants shall provide the department with periodic reimbursement documentation and project reports. The elements addressed in a progress report shall include verification of capital investment, job creation, and the number of newly created jobs for which state residents are hired, if applicable. A financial audit of project expenditures and final project report shall be submitted at the end of the contract term. The financial audit shall be performed to the requirements and satisfaction of the department. The reimbursement documentation, audit and the project reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, financial audit and the project reports become the property of the department and are open to public inspection.

Note: See chapter Comm 149 for additional requirements relating to (1) contracts between the Department and recipients of economic-development grants or loans; (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.

Comm 106.60 Administration. (1) The department shall solicit applications, review applications, enter into contracts with successful applicants, authorize payments and otherwise implement contractual obligations entailed in grants or loans made under the terms of this chapter, monitor the provision of training, receive and review the reimbursement documentation and project reports submitted under s. Comm 106.55, and collect any repayments of grants and loans or any payments of fees and penalties from successful applicants.

(2) The department may charge a grant or loan recipient an origination fee of not more than 2% of the grant or loan amount if the grant or loan equals or exceeds \$100,000. The department shall deposit all origination fees collected under this subsection into the appropriation account under s. 20.143 (1) (gm), Stats.

(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 publication in the Wisconsin administrative register.

File reference: Comm 106/rules 2009 LRac