

Report From Agency

PROPOSED ORDER OF THE STATE OF WISCONSIN

DEPARTMENT OF VETERANS AFFAIRS

ADOPTING PERMANENT RULE REGARDING VA 2.08

THE VETERANS EMPLOYMENT AND ENTREPRENEURSHIP GRANT PROGRAM

The statement of scope for this rule to modify Chapter VA 2.08, SS 069-16, was approved by the Governor on July 22, 2016, published in Register No. 728A2 on August 8, 2016, and approved by Secretary John A. Scocos on August 19, 2016.

ORDER

The Department of Veterans Affairs proposes an order to create VA 2.08.

RULE SUMMARY/ANALYSIS

PREPARED BY THE DEPARTMENT OF VETERANS AFFAIRS

1. Statute interpreted: Section 45.437 Stats.

2. Statutory authority: Sections 45.437(4), 45.03 (2) and 227.10 (2m)

3. Explanation of agency authority:

2015 Act 385 creates s. 45.437, Stats., which provides the Department of Veterans Affairs authority to award grants to veterans, employers, and nonprofit or organizations to assist veteran entrepreneurs, to give employers in this state incentives to hire veterans, especially disabled veterans, to help fund employment training for veterans, especially disabled veterans, and for other programs or purposes as determined by the department by rule.

Section 45.437(4) explicitly directs the Department of Veterans Affairs to promulgate rules necessary to carry out the purposes of Chapter 45 and the powers and duties conferred upon it.

Section 45.03 (1), Stats., authorizes the Secretary of the Department of Veterans Affairs to promulgate rules necessary to carry out the purposes of Chapter 45 and the powers and duties conferred upon it.

Section 227.10 (1), Stats., directs each agency to promulgate as a rule each statement of policy to govern its enforcement and interpretation of a statute.

Section 227.10 (2m), Stats., directs each agency to promulgate rules for the implementation or enforcement of any standard, requirement, or threshold.

4. Related statutes or rules:

Section 45.47 provides the definition of a grant recipient, details a grant recipient's record-keeping duties, and provides for reduction, suspension, or termination of funds to grant recipients, in addition to other legal remedies, should a grant recipient fail in those duties.

5. Plain language analysis:

The department proposes to promulgate the required rules detailing the goals grant recipients must meet and requiring that those goals be met before any grant moneys are disbursed, as well as regarding the reporting requirements regarding the expenditures of grant moneys, and audits of those records to ensure compliance.

The proposed new policies will establish the general criteria, procedures, requirements and conditions for employers and non-profit organizations to apply for grant funds not to exceed \$500,000 in aggregate per fiscal year.

6. Summary of, and comparison with, existing or proposed federal statutes and regulations.

The Veterans Employment and Entrepreneurship Grant Program is administered under the authority of state law. There are no existing or proposed federal regulations that address the activities to be regulated by the rule.

7. Comparison with rules in adjacent states:

In reviewing the statutes, rules and websites of veterans departments of adjacent states revealed no similar grant program

8. Summary of factual data and analytical methodologies:

The Department analyzed the grant processes of state agencies experienced in the administration of grants and used those processes as a foundation for the rule and application procedures.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

There is no anticipated impact on small businesses.

10. Effect on small business:

There is no anticipated impact on small businesses.

10. Fiscal Estimate:

This rule will have no fiscal impact on small businesses. The program described by this rule may provide funds to some small businesses. It requires the completion of an application if the business wishes to receive grant funds, but imposes no duty on businesses not wishing to apply for the grant funds.

11. Comments and opinions prepared by the Board of Veterans Affairs under s. 45.03(2m), Stats.:

The Board members unanimously voted to approve adopting the proposed language to Chapter VA 2.08, the Employment and Entrepreneurship Program, and offered no comments.

12. Agency contact person and place where comments are to be submitted and deadline for submission:

Comments on proposed administrative rules will be accepted through the Legislature's website at <http://docs.legis.wisconsin.gov/code/comment>. All submitted comments will be sent to the appropriate agency rules coordinators. It is necessary to include your contact information in your submitted comments if you wish to receive a response.

Agency contact person:

Kelly Brady, paralegal
Office of Legal Counsel
Department of Veterans Affairs
201 W Washington Avenue
PO Box 7843
Madison, WI 53707-7843
Phone: 608-266-7916
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SECTION 1. VA 2.08 is created to read:

VA 2.08 Veterans employment and entrepreneurship grants. (1) AUTHORITY AND PURPOSE. The purpose of this section is to establish rules for the implementation and administration of grants to assist veteran entrepreneurs, to give

employers in this state incentives to hire veterans, especially disabled veterans, and to help fund employment training for veterans, especially disabled veterans, as authorized under s. 45.437, Stats.

(2) APPLICABILITY. This section applies to grants awarded under s. 45.437, Stats.

(3) DEFINITIONS In this section:

(a) “Applicant” means an employer or nonprofit organization located in this state that applies for a grant to improve employment outcomes for veterans living in this state.

(b) “Certification Request” means a department approved form used to verify the employee is a veteran and a resident of this state in accordance with sections 45.01(12) and 45.02, Wis. Stats.; and has a service-connected Federal VA disability rating of at least 50%, under 38 USC 1114 or 1134.

(c) “Department” means the Wisconsin department of veterans affairs.

(d) “Disabled veteran” means a veteran who is verified by the department to have a service-connected disability rating of at least 50 percent under 38 USC 1114 or 1134.

(e) “Employee” means a person who is hired for a wage, salary, fee or payment to perform work for an employer.

(f) “Employer” means a person or organization located in the state that employs people, but does not include local, state, and federal government agencies.

(g) “Evaluation committee” means a committee comprised of members of the board of veterans affairs that evaluates applications made under subsection (5).

(h) "Full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.

(i) "Grant" means an agreement between the department and the grantee whereby the department provides funds from the appropriation under s. 20.485 (2) (qm), Stats., for the purposes specified in s. 45.437, Stats.

(j) "Grantee" means an employer or nonprofit organization receiving a grant from the department.

(k) "Grant participant" means a person who meets the requirements of s. 45.01 (12), Stats. and receives services under subsection (5).

(l) "Nonprofit organization" is an organization described in section 501 (c) (3) and 501(c)(6) of the internal revenue code that is exempt from federal income tax under s. 501 (a) of the internal revenue code.

(m) "Part-time job" means a regular, nonseasonal part-time position in which an individual, as a condition of employment, is required to work fewer than 2,080 hours per year, including paid leave and holidays.

(n) "Underserved geographic areas of the state" means rural communities.

(o) "Underserved veteran populations" means minority groups, women, low-income, veterans with disabilities.

(p) "Veteran" means a person who meets the requirements of s. 45.01 (12), Stats., and resides in the state.

(4) VETERANS EMPLOYMENT GRANTS. (a) From the appropriation under s. 20.485 (2) (qm), Stats., the department may award a grant in any of the following amounts to any employer who hires a disabled veteran to work at a business in this state:

1. For each disabled veteran the employer employs for 12 consecutive months to work a full-time job at the employer's business in this state, \$2,500 following the first 6 months of employment, and \$2,500 following the second 6 months of employment.
2. Subject to par. (d), for each disabled veteran the employer employs for 12 consecutive months to work a part-time job at the employer's business in this state, \$1,250 following the first 6 months of employment, and \$1,250 following the second 6 months of employment.

(b) **GRANT APPLICATION.** A grant application shall be submitted on a department approved form. The application shall specify employer and employee contact information and verification of employee employment status. The department may request additional verification of any information provided in the application. A "certification request" shall be submitted with the application. The certification shall be used to verify the employee is a veteran and a resident of this state in accordance with sections 45.01(12) and 45.02, Wis. Stats. and has a service-connected Federal VA disability rating of at least 50%, under 38 USC 1114 or 1134. The form shall be submitted directly to the department, either manually or electronically.

(c) The department shall not pay a grant to an applicant if the veteran voluntarily or involuntarily leaves his or her employment with the applicant.

(d) The department shall determine the amount of the grant under sub. (4) (a) as follows:

1. Divide the number of hours that the disabled veteran worked for the applicant for 6 consecutive months of employment by 1040, or for 12 consecutive months of employment by 2,080, and then
2. Multiply the number determined under subd. 1 by \$1250 for 6 consecutive months of employment or \$2500 for 12 consecutive months of employment.

(5) VETERANS ENTREPRENEURSHIP GRANTS. (a) *Eligible applicant.* A nonprofit organization is eligible to receive a grant under this subsection when the organization meets all of the following conditions:

1. It provides entrepreneurship training, technical or business assistance, financial assistance, or other assistance to veteran entrepreneurs to improve employment outcomes.
2. It is current on all federal and state tax obligations.
3. It is a financially viable nonprofit organization. In this subsection, a nonprofit organization is financially viable if the nonprofit organization can meet its financial obligations for the duration of the grant period, as disclosed in the notice described in paragraph (c).
4. It is registered and in good standing with the Wisconsin department of financial institutions.

(b) *Competitive solicitation of grant proposals.* The department shall ensure that it conducts all solicitations of grant proposals in a fair and competitive manner.

(c) *Public notice of solicitation of grant proposals.* The department shall provide reasonable public notice of all solicitations by the department for proposals for the award of grants by the department under s. 45.437, Stats. Notice may be made through print, broadcast, or telecommunications media, including the Internet, at the discretion of the department. The notice shall include the purpose of the grants and the selection criteria, application procedures, and all applicable solicitation deadlines that an applicant is required to meet, or shall contain instructions for obtaining this information.

(d) *Grant application requirements.* A representative of the applicant having authority to act for the applicant shall sign the application, ensure that it is complete, and submit it by the deadline. Applications shall include all of the following:

1. Application on a form created by the department.
2. Proof of nonprofit status as a registered 501(c)(3) or 501(c)(6) organization.
- 3 Grant request cover letter that includes a synopsis of the grant proposal and amount of grant requested.
4. A description of the entrepreneurship training, technical, business, or financial assistance, or other entrepreneurship assistance that it provides to veterans.
5. Most recent annual report or other literature summarizing programs.
6. List of board members and executive officers including titles and affiliations.

7. Income statement and balance sheet for the most recent fiscal year, as well as a budget and income projection for the grant period, as disclosed in the notice described in subsection (5).

8. Information that demonstrates that the applicant has achieved all of the following required program goals during the previous year:

a. Expansion of entrepreneur opportunities for veterans by providing services that may include entrepreneurship training, technical and business assistance, financial assistance or other entrepreneurship services to veterans.

b. Increase of collaboration with other agencies to strengthen the delivery of programs, resources, and services to veteran entrepreneurs.

c. Expansion of outreach to underserved geographic areas of the state and underserved veteran populations.

(e) *Evaluation of grant applications.* The evaluation committee shall evaluate grant applications submitted under this subsection against selection criteria. The department shall develop criteria to evaluate applicants with regard to all of the following rating categories:

1. The applicant's background and organizational history.
2. The applicant's organizational qualifications and past performance.
3. The applicant's experience working with veterans.
4. The applicant's need for grant funding, including a detailed budget.

5. The applicant's outreach and referral plan.
6. The applicant's program implementation timeline
7. The applicant's monitoring and program evaluation.
8. The applicant's program goals and objectives.
9. The applicant's past working relationships with other start-up businesses and entrepreneurship programs.

(f) *Notification of award or denial of grant.* The department shall notify each applicant in writing of its decision to award or not award a grant in accordance with the public notice under this subsection.

(g) *Grant awards.* The department shall award grants to the applicants with the highest numerical scores determined under the criteria developed under par. (e) as funds are available. A grant awarded under this section shall be made on forms prepared by the department. The award shall be signed by the authorized representative of the department and shall list any conditions to which the award is subject.

(h) *Grant acceptance.* The authorized representative of the recipient nonprofit organization shall accept the grant award by signing the award document and returning it to the department. The department may terminate a grant award if the award is not accepted within 10 calendar days of the date of issuance by the department.

(i) *Amount of grants.* The amount of each grant will be based on the amount requested and the amount approved by the evaluation committee. The grant award shall not exceed the amount requested.

(j) *Restrictions.* 1. 'Prohibited use of funds.' a. Grant funds shall be used only for the payment or reimbursement of expenses assignable to the approved purposes of the grant. Any other use of grant funds is prohibited. A grantee may not use the grant funds to supplant existing employee wages and compensation. A grantee may not use grant funds to purchase capital equipment unless specified in the grant award.

b. A grantee agrees that no grant appropriated funds will be paid to any person for influencing or attempting to influence an officer or employee of any agency, any member of the Wisconsin legislature, or an employee of a member of the legislature in connection with the awarding of any state contract, the making of any state grant, the making of any state loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state contract, grant, loan, or cooperative agreement.

2. 'Violation of prohibited use of funds'. If a grantee uses grant funds for prohibited activities under par. (a), the department may terminate the grant and recover funds previously paid to the grantee for that funding period on a recoupment schedule specified in the grant award.

3. 'Record keeping'. A grantee shall maintain grant records for at least 3 years and shall provide information to the department as required by the department for the purposes of program or fiscal audits and, at the request of the department,

shall appear before the department to respond to any questions about the grant and use of grant funds.

(k) *Eligibility and certification.* In order for a grant participant to receive services from the grantee that are funded by a grant awarded under this subsection, a grantee must submit a certification request to the department to verify eligibility of each grant participant. Services can only be provided by the grantee to grant participants verified by the department as eligible on forms created by the department.

(l) *Reporting requirements.* A grantee receiving a grant under this subsection shall submit to the department data and information on the use and impact of the grant funds as specified in this section and in the grant award by 6 months from the date of the award of the grant or June 30 of the fiscal year in which the grant is awarded, whichever is later. Such data and information includes:

1. The number of veterans assisted by the grantee with grant funds.
2. The dollar amount of the grant funds applied to each veteran assisted.
3. The type of assistance given to each veteran with grant funds.
4. The measurable outcomes of the grant funds applied to each veteran assisted as defined by the department at the time of awarding the grant.

(m) *Assurances and certifications.* 1. 'Authority to sign and accept funds'. The grantee shall certify that the designated signatory official has the authority to sign on behalf of the grantee and has the authority to accept funds.

2. 'Compliance statement'. Before the department releases grant funds, the grantee shall provide a statement that it is in compliance with applicable state and federal laws, rules, and regulations, including tax laws, the requirements of this section, and the grant award.

3. 'Nondiscrimination and equal opportunity'. In accordance with s. 16.765, Stats., the grantee may not discriminate in violation of state or federal law and shall follow equal employment opportunity practices in the administration and delivery of program services to eligible applicants.

END OF RULE TEXT

SECTION 2

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

Dated this ___ day of _____, 2016.

STATE OF WISCONSIN
DEPARTMENT OF VETERANS AFFAIRS

Daniel J. Zimmerman, Secretary