

CR 82-8

C E R T I F I C A T E

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STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Owen Ayres, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the department, do hereby certify that the annexed rule amending TRANS 2 and TRANS 3 (CR 82-8) was duly approved and adopted by this department on June 16, 1982.

I further certify that this copy has been compared by me with the original on file in this department and that the same is a true copy there of and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereonto set my hand and affixed the official seal of the Department of Transportation in the City of Madison, Wisconsin, this 16 day of June, 1982.

Owen Ayres

Secretary
Wisconsin Department of Transportation

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STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

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AN ORDER to repeal Trans 2.04(2); to renumber Trans 2.04(1), 2.04(1)(a), 2.04(c) and 2.04(d); to renumber and amend Trans 2.04(1)(b); to amend Trans 2.01, 2.02(1), 2.06(1)(b), 2.06(2)(d) and 3.01(1); to repeal and recreate Trans 2.03, 2.05, 2.06 (title), 2.06(1)(a) and 2.06(2)(c); and to create Trans 2.015, 2.045 and 2.06(3) relating to the policies and procedures for implementing the elderly and handicapped transportation assistance program for private nonprofit organizations and to the procedures for counting revenue passenger trips in the urban mass transit operating assistance program.

Analysis Prepared by the Department of Transportation

General summary of rule. The 1981-83 state budget act (Chapter 20, Laws of 1981) amended the statute authorizing the transportation capital assistance program for private, nonprofit organizations by renumbering the statute from s. 85.08(6) to s. 85.22, Stats., and by restricting the use of state aid so that the sum of state aid and accompanying federal aid under s. 16(b)(2), Urban Mass Transportation Act, received by a recipient shall not exceed 80% of the capital project costs. Sections 1, 4 and 12 of these amendments to Trans 2 respond to these statutory changes by correcting references to renumbered statutes and by making the rules on the use of state and federal aids consistent with the new statutory limit on the maximum percent of costs which these aids may pay.

The rule changes also clarify and strengthen application procedures designed to protect private enterprise from unfair competition. Section 3 creates a requirement that applicants have the authority to purchase transportation service from other organizations, unless they are legally prohibited from doing so. Sections 5 through 10 create rules on competition and also renumber rules on coordination.

Section 11 of the text establishes a standard schedule of deadlines for applicants to follow, while continuing the existing requirements for submittal of the original application and its copies.

The Department funds eligible applications in rank order of their evaluation scores and to the extent that combined federal and state program funding is available. Three adjustments to the application evaluation specifications are made. Sections 13, 14 and 15 of the text reduce the

minimum evaluation score needed by an application for approval from 125 to 100 (out of a maximum of 270); refine the evaluation criterion of "need"; and permit consideration of an organization's previous performance with this program.

Section 16 of the text creates a rule which would permit the Department to readminister a complete or partial application process for state or federal aids that remain after the completion of a regular application cycle.

These amendments also correct a statutory reference in Trans 3.01(1) to coincide with a renumbered statute.

Authority for rule. Section 85.22(3), Stats., authorizes the department to administer a state capital assistance program for private nonprofit organizations. Sections 110.06(1) and 227.014, Stats., grant the department general rule-making authority.

Fiscal estimate. Only one of the changes will have a significant fiscal effect. It is the new version of Trans 2.03 which is mandated by an amendment made to s. 85.22, Stats. by the 1981-83 state budget act. The effect of this statutory amendment is to require all eligible applicants to provide 20 percent of the costs of purchasing capital equipment from their own resources. Prior to the statutory amendment, state aids could be used to match federal grants and to make 100 percent grants to eligible applicants. The amended statute now specifies that all capital grants, be they state, federal or some combination thereof, cannot exceed 80 percent of project costs.

This analysis has been prepared by Frank Potts of the DOT Bureau of Transit; (608) 266-1650.

TEXT OF RULE

Pursuant to authority vested in the department of transportation by ss. 85.22(3), 110.06(1) and 227.014, Stats., the department of transportation hereby amends and creates rules interpreting ss. 85.22 and 85.20, Stats. as follows:

SECTION 1. Trans 2.01 is amended to read:

Trans 2.01 PURPOSE AND SCOPE. The purposes of this chapter are to establish the department of transportation's administrative interpretation of ~~s. 85.22(3)~~ s. 85.22, Stats., and to prescribe administrative policies and procedures for implementing the elderly and handicapped transportation assistance program for private nonprofit organizations authorized under ~~s. 85.20(3)~~ s. 85.20, Stats.

SECTION 2. Trans 2.015 is created to read:

Trans 2.015 DEFINITIONS. (1) "Application deadline" is the first Monday in December.

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

(3) "Federal 16(b)(2) program" means the federal assistance program under 49 U.S.C. s. 1612(b)(2).

(4) "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.

SECTION 3. Trans 2.02(1) is amended to read:

Trans 2.02(1) Private nonprofit organizations that are eligible for federal assistance under the 49-U.S.C.-1612(b)(2) {federal 16(b)(2) program} are eligible for state assistance under ~~s. 85.22(3)~~ s. 85.22, Stats. The eligible organization's application for federal 16(b)(2) program aids shall be

used as the basis for determining state aid eligibility under this chapter. All applicants must comply with federal regulations governing the 16(b)(2) program. At the time it applies to the 16(b)(2) program, an organization shall 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 organization which is prohibited in this way from subcontracting shall be eligible to apply only if the contracts which prohibit it from subcontracting were publicly bid and open to all transportation providers.

SECTION 4. Trans 2.03 is repealed and recreated to read:

Trans 2.03 CAPITAL COSTS. Commencing with the highest ranking application as determined under s. 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.

SECTION 5. Trans 2.04(1) is renumbered to be 2.04(intro.)

SECTION 6. Trans 2.04(1)(a) is renumbered to be 2.04(1).

SECTION 7. Trans 2.04(1)(b) is renumbered and amended to read:

Trans 2.04(2) Include in its application evidence that the proposed project will not duplicate other services provided under ~~s. 85.08(5)~~ s. 85.21, Stats.

SECTION 8. Trans 2.04(1)(c) and (d) are renumbered to be Trans 2.04(3) and (4).

SECTION 9. Trans 2.04(2) is repealed.

SECTION 10. Trans 2.045 is created to read:

Trans 2.045 OPPORTUNITY FOR COMPETITON. (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 include copies of all correspondence between the applicant and other transportation providers as well as proposals received by the applicant from other transportation providers. The department may reject an application for failure to comply with this requirement.

(2) In each case where an applicant receives a proposal from another transportation provider, the department shall determine whether the proposal represents available, sufficient and appropriate service to meet the applicant's needs. Based on this determination, the department may reject an application.

(3) 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.

SECTION 11. Trans 2.05 is repealed and recreated to read:

Trans 2.05 SCHEDULE FOR PREPARING APPLICATIONS; FILING OF ORIGINAL APPLICATION AND COPIES. (1) Each application for assistance under this chapter shall be considered valid only during the annual program cycle in which it is submitted. Except as provided in Tran 2.06(3), an applicant for 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 December, submit its completed application to the department's appropriate district office;

(b) Not less than 70 days before the application deadline, publish 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; and the applicant's proposed service area;

(c) Not less than 7 days after publication of the "Notice to Transportation Providers" but not less than 60 days before the application deadline, provide written details of the applicant's proposed transportation service to all other transportation providers within the applicant's proposed service area. The details shall describe the projected type, amount and cost of the service in which the applicant will use the equipment for which it is applying and shall allow other transportation providers 30 days in which to respond; and

(d) Not less than 14 days before the application deadline, respond in writing to all proposals by other transportation providers. The response to an unacceptable proposal shall explain the reasons for rejecting the proposal.

(2) The department shall not grant to any applicant except those permitted under 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 A-95 review agency, 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 45 days following submission of the application to the department. The department shall give appropriate consideration to review comments.

SECTION 12. Trans 2.06 (title) and (1)(a) are repealed and recreated to read:

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.

SECTION 13. Trans 2.06(1)(b) is amended to read:

Trans 2.06(1)(b). Using the evaluation criteria, point scores will be assigned to each application. A minimum score of ~~125~~ 100 points (of a possible 270) is required for funding consideration.

SECTION 14. Trans 2.06(2)(c) is repealed and recreated to read:

Trans 2.06(2)(c). The extent to which transportation needs of elderly and handicapped persons are identified through:

1. Evidence that presents a measurement of need (0-30 points); and
2. Evidence of the capability of the applicant to address those needs (0-45 points).

SECTION 15. Trans 2.06(2)(d) is amended to read:

Trans 2.06(2)(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 16(b)(2) capital assistance grants may be considered (0-45 points).

SECTION 16. Trans 2.06(3) is created to read:

Trans 2.06(3). If available state and federal aids exceed the amount requested by applications receiving scores at or above the minimum specified in sub. (1) of this section, 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 Trans 2.05(1) and establish alternative deadlines as it determines to be appropriate for applications submitted under this paragraph.

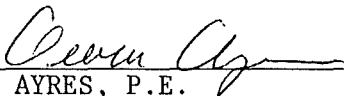
SECTION 17. Trans 3.01(1) is amended to read:

Trans 3.01(1). The purpose of this chapter is to establish procedures for counting revenue passenger trips taken on participating urban mass transit systems in connection with the administration of the state financial urban mass transit assistance program under ~~s. 85.20~~ s. 85.20, Stats.

(End of Rule Text)

This rule shall take effect upon publication as provided in s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin this
16 day of June, 1982.



OWEN AYRES, P.E.
Secretary
Wisconsin Department of
Transportation