

CR 84-9

C E R T I F I C A T E

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STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

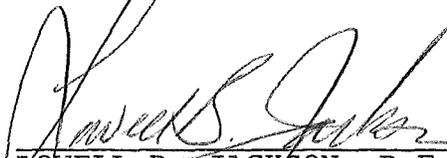
MAR 13 1984
2:25 pm
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the Department, do hereby certify that the annexed administrative rule relating to the rural and small urban area public transportation assistance program was approved and adopted by this Department on March 13th, 1984.

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

IN TESTIMONY WHEREOF, I have here-
onto set my hand and affixed the
official seal of the Department
at the Hill Farms State Office
Building in the City of Madison,
Wisconsin, this 13th day of
March, 1984.



LOWELL B. JACKSON, P.E.
Secretary
Wisconsin Department of
Transportation

5-1-84

IN THE MATTER OF THE REPEAL AND	:	
RECREATION OF CHAPTER TRANS 6,	:	
WISCONSIN ADMINISTRATIVE CODE,	:	ORDER
RELATING TO THE RURAL AND SMALL	:	ADOPTING
URBAN AREA PUBLIC TRANSPORTATION	:	RULE
ASSISTANCE PROGRAM	:	

Analysis Prepared by the Wisconsin Department of Transportation

General summary of rule. The Department of Transportation is authorized to adopt and revise rules with respect to the administration of funds available under the federal rural and small urban area public transportation program, commonly known as the federal section 18 program. This rule revises program priorities, eligibility standards and limitations of potential project applications filed with the Department.

Major provisions of the rule are:

- Reinstatement of the one-time annual application for all proposed operating and capital assistance projects.
- Funding of operating assistance projects before providing capital assistance.
- Allowing small urban areas with a population of at least 5,000 but not more than 49,999 who wish to start up service a one-year grace period in which to hold a referendum on their operating assistance project. The rule requires the referendum be held before the second year's application is submitted.
- Allowing public bodies to provide a new service, on a trial basis, using leased equipment without making a commitment to purchase vehicles. An "emergency situation" need no longer exist to enable leasing of equipment. Should the public body decide to operate the service on a permanent basis, application for a capital grant to purchase vehicles prior to the end of the first year will continue the eligibility of lease payments until the new equipment is delivered.
- Allowing the Secretary to approve late filing of capital applications as well as operating applications based upon emergency situations.

Fiscal estimate summary. No significant fiscal effect on any of the systems presently under the program will result from the repeal and recreation of Trans 6.

This analysis was prepared by Ron Morse, Bureau of Transit, Wisconsin Department of Transportation (608) 266-9637.

Pursuant to the authority vested in the state of Wisconsin, department of transportation, by ss. 85.23, 110.06(1) and 227.014 (2)(a), Stats., the department of transportation hereby adopts an administrative rule interpreting the provisions of ss. 85.20 and 85.23, Stats., as follows:

RULE TEXT

SECTION 1. Chapter TRANS 6 is repealed and recreated to read:

TRANS 6

RURAL AND SMALL URBAN AREA

PUBLIC TRANSPORTATION ASSISTANCE PROGRAM

TRANS 6.01 PURPOSE AND SCOPE OF RULE. The purpose of this chapter is to prescribe the department of transportation's administrative interpretation of ss. 85.20 and 85.23, Stats., and to prescribe the administrative policies and procedures for implementing the federal program for public transportation projects in areas other than urbanized. This program is authorized by section 18 of the urban mass transportation act of 1964, as amended. The goals of this program are to enhance access of people in non-urbanized areas for purposes such as health care, shopping, education, recreation, public services and employment by encouraging the maintenance, development, improvement and use

of public transportation services. By federal definition, "areas other than urbanized" include small urban and rural areas.

TRANS 6.02 DEFINITIONS. (1) "Capital project cost" means the cost of acquisition, construction, reconstruction and improvement of facilities, vehicles and equipment for use in the provision of an eligible public transportation service. A public body shall retain ownership of all capital items purchased under this program.

(2) "Eligible applicants" means local public bodies, private transportation providers and Indian reservations.

(3) "Eligible public transportation service" means a public transportation service operating or designed to operate in non-urbanized areas.

(4) "Federal section 18 funds" means all funds appropriated to the state for use in the federal program for public transportation projects in small urban, rural and intercity areas.

(5) "Local public bodies" means counties, cities, villages and towns or agencies thereof.

(6) "Operating project cost" means the difference between the costs of operating an eligible public transportation service and the revenues derived therefrom. User subsidies such as transportation stamps are not considered to be "operating costs" for purposes of this chapter.

(7) "Private transportation providers" means privately owned (for-profit or nonprofit) organizations that operate an eligible public transportation service.

(8) "Project year" means a calendar year.

(9) "Public transportation service" means a passenger transportation service provided to the general public on a regular and continuing basis by a public agency or private firm. Passenger fares shall be collected for the service in accordance with established tariff schedules. The transportation service may be provided by bus, rail, shared-ride taxicab or other conveyance. The service may constitute an entire public transit system or may be an individual route or a segment of a route provided by a common carrier of passengers. The service shall be authorized by the office of the commissioner of transportation under ch. 194, Stats., unless exempt under s. 85.20(5), Stats., or under ch. 194, Stats. A transportation service provided exclusively for a subgroup of the general public is not considered to be a "public transportation service" for purposes of this chapter, unless it is part of an overall public transit service to the area.

(10) "Small urban area" means any area that includes a city or village having a population of at least 5,000, but not more than 49,999, that is appropriate, in the department's judgment, for an urban mass transit system. The department shall determine the population of a city or village within a small urban area using the most recent estimates prepared by the department of administration.

(11) "Station revenue" means those revenues which are derived from the operation of a public transportation facility. Such revenues include concessions, storage rentals, parking, office space rental, and other miscellaneous sources.

(12) "Urbanized area" means those areas of the state so defined by the U.S. Bureau of the Census.

(13) "User-side subsidies" means a program whereby users of the transit service are permitted to purchase transportation vouchers at prices substantially below the fares charged by the transit providers. The users can exchange these vouchers for transportation services, and the providers can then redeem them for the full fare.

TRANS 6.03 FEDERAL SHARE OF PROJECT COSTS. (1) The federal share of operating project costs shall not exceed 50% of those costs. The department has determined that the following operating revenues and expenses shall be used to establish the project costs.

(a) Operating revenues shall consist of all passenger and station revenue derived from the project service and any unrestricted federal, state or local funds received as a result of providing the project service, which are not used to match federal section 18 funds. Package express revenue received by private intercity applicants is not operating revenue for the purposes of this chapter.

[Note: Charter operation expenses and revenues for all applicants and package delivery expenses and revenues for all public body applicants can be assumed to be equal and, therefore, will not have any net financial effect on the project.]

(b) Eligible operating expenses are those transportation and overhead expenses associated with the provision of public transportation service including labor, fringe benefits, materials and supplies, utilities, insurance, purchased transportation service,

license fees and certain lease expenses. The following expenses are not eligible project expenses:

1. Depreciation and amortization except for privately owned systems not receiving state operating assistance under s. 85.20, Stats.;

2. Taxes paid which are subject to rebate;

3. Interest expense, except that privately owned systems not receiving state operating assistance under s. 85.20, Stats., may include interest on short-term debt obligation;

4. Profit, except for privately owned systems not receiving state operating assistance under s. 85.20, Stats. Such private systems are eligible for profit which shall be a fixed fee and cannot exceed 10% of the gross contract costs;

5. Lease-purchase payments;

6. Lease payments to a related party which are a less than arms length agreement, except for privately owned systems not receiving state operating assistance under s. 85.20, Stats. Only actual eligible expenses of owning the property, including depreciation and taxes, shall be allowed;

7. Lease payments for revenue passenger vehicles, unless the grantee is a privately owned system not receiving state operating assistance under s. 85.20, Stats., or a situation exists necessitating a short-term lease. In this subdivision, 'short-term lease' means a lease of one year or less in duration. If the grantee is actively pursuing a federal grant to purchase vehicles, the eligibility of lease payments may be extended until delivery of the purchased vehicles.

8. Entertainment costs;
9. Fines and penalties;
10. Bad debts;
11. Charitable deductions;
12. User-side subsidies;
13. Payments to members of advisory committees, transit commissions or transit boards;
14. Federal, state and local income taxes;
15. Expenses related to contractual agreements for special planning studies;
16. Indirect transit-related functions or activities of regional or local entities performed as a normal or direct aspect of general public administration;
17. Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund. For the purposes of determining eligible operating expenses, capital acquisitions are defined as the purchase of non-expendable personal property with a useful life of more than one year and an acquisition cost of \$300 or more per unit. A unit is defined as one or more like items. The cost of materials and supplies utilized in facility or vehicle repairs, regardless of cost, shall be considered as eligible operating costs so long as the repairs involve replacement of existing items.

(2) The federal share of capital project costs shall not exceed 80% of eligible costs. The department shall establish the appropriateness of each capital expenditure. Where capital items are to be shared by parties not directly involved in the provision

of the project service, it shall be shown to the satisfaction of the department that the applicant will use the item at least 50% of the available time before the item shall be considered eligible for funding. The project cost shall be prorated according to the use percentage.

TRANS 6.04 DISTRIBUTION OF FEDERAL AIDS. (1) The state's annual apportionment of federal section 18 funds shall be distributed as follows:

(a) Up to 10% shall be reserved by the department for administrative and technical assistance purposes. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs and research the department deems appropriate to promote effective means of delivering public transportation services in areas other than urbanized areas. Any uncommitted balance of the state's apportionment of administrative funds from a preceding project year may be used during subsequent years until the balance is depleted.

(b) The apportionment from the mass transit account of the federal highway trust fund shall be made available to all eligible applicants for capital grants only. Funds reserved under this subsection shall be expended in accordance with criteria set forth under s. TRANS 6.06.

(c) Apportionments from the general fund are initially available for operating assistance grants to eligible small urban and rural/intercity applicants. Eligible applicants within small urban areas shall be local public bodies and shall be found

appropriate, in the department's judgment, for an urban mass transit system. In determining whether a small urban area is appropriate for an urban mass transit system for purposes of granting federal section 18 aid, the department shall use the following criteria:

1. All small urban areas receiving state urban mass transit aids and served by urban mass transit systems as of December 31, 1982 shall be deemed appropriate.

2. Except as provided for in subd. 1, a small urban area shall be deemed appropriate if the electorate of its most populous public body approves a referendum question prior to the filing of its second year's application asking whether the public body should subsidize the operations of an urban mass transit system.

Any balance remaining in Trans 6.04(1)(c) after operating assistance needs are met shall be available to all eligible applicants for capital grants to be awarded in accordance with criteria set forth under s. Trans 6.06.

(2) Any uncommitted balance of the state's current or preceding project year's annual apportionment from the general fund or any unexpended balance from previous obligations shall be carried forward to the following year's operating assistance fund.

TRANS 6.05 OPERATING GRANTS TO AREAS OTHER THAN URBANIZED. Subject to the limitations set forth in s. TRANS 6.03(1), the operating assistance funds available in s. TRANS 6.04(1)(c) shall be allocated among eligible applicants in proportion to each applicant's share of the projected operating project costs of all applications.

TRANS 6.06 CAPITAL GRANTS. (1) Capital assistance funds under s. TRANS 6.04(1)(b) and (c) shall be made available according to the following rank order of priority until all of the funds available are committed:

(a) Projects for services to Indian reservations;

(b) Projects to replace vehicles operated by existing systems;

(c) Projects to initiate a public transportation service in areas other than urbanized;

(d) Projects to replace maintenance and storage facilities of existing systems;

(e) Projects to expand the number of vehicles operated by existing systems;

(f) Projects to expand and rehabilitate maintenance and storage facilities of existing systems; and

(g) Projects to purchase and install passenger amenities for existing systems such as shelters and bus stop signs.

(2) If available funds are not sufficient to fund all applications within a given category, then the department shall, after consultation with the applicants, reduce the scope or timing of proposed projects within that category to fit available funding.

TRANS 6.07 APPLICATION FOR FEDERAL AIDS. (1) Eligible applicants may apply to the department for federal section 18 funds. If more than one local public body will financially participate in the project, one body should submit a single application on behalf of all. In those cases, the federal aids

received shall be allocated among all local public bodies in proportion to each one's share of eligible project costs.

(2) Applications shall be submitted to the department no later than December 1 of the year immediately preceding the project year. Applicants may request up to a 30-day extension of this date and the department may grant those requests. No application for operating assistance or capital assistance received after January 1 of the project year may be funded unless the secretary of transportation determines that a later date is appropriate in order to properly respond to an emergency situation.

(3) The assisted transit services may be operated for less than a calendar year.

(4) Applications shall be made in a manner and form prescribed by the department in accordance with governing federal regulations.

(5) The applicant shall submit the original of its application to the appropriate transportation district office of the department.

(6) An applicant shall submit a copy of its application for review and comment purposes to the appropriate regional planning commission, 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 by the agencies shall be submitted to the department's appropriate transportation district office within 45 days following the submission of the application to the

department. The department shall give appropriate consideration to the review comments of the agencies.

(7) The department reserves the right to reject applications for any of the following reasons:

(a) The proposed project is not consistent with the intent of the federal section 18 program;

(b) The lack of federal funds;

(c) The application is incomplete;

(d) The proposed project is not effective and efficient when compared to projects of a similar type. Such measures as the ratio of operating revenues to operating expenses, passengers per mile of service, operating expenses per passenger, and passengers per population served may be used to determine effectiveness and efficiency.

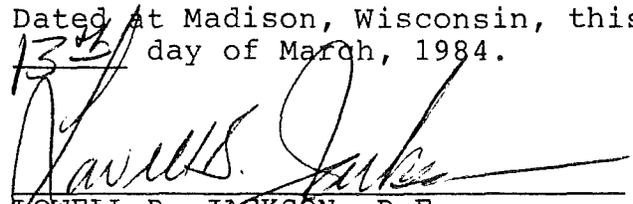
TRANS 6.08 REPORTING REQUIREMENTS. All grant recipients shall maintain books and records in the manner required by the department and shall make periodic and special reports as required by the department or by governing federal regulations.

TRANS 6.09 LABOR PROTECTION REQUIREMENTS. Each eligible applicant, through formal resolution by its governing body, shall assume all responsibility and liability for all labor protection requirements imposed by the federal government to implement section 13(c) of the urban mass transportation act of 1964, as amended. The department shall not fund any applicant that fails to comply with this section.

(End)

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

Dated at Madison, Wisconsin, this
~~13th~~ day of March, 1984.

A handwritten signature in black ink, appearing to read "Lowell B. Jackson", written over a horizontal line.

LOWELL B. JACKSON, P.E.
Secretary
Wisconsin Department of
Transportation



State of Wisconsin \

DEPARTMENT OF TRANSPORTATION



PLEASE REPLY TO:

OFFICE OF GENERAL COUNSEL

4802 Sheboygan Avenue
P. O. Box 7910
Madison, WI 53707
Telephone: (608) 266-8810

March 12, 1984

RECEIVED

MAR 13 1984

Revisor of Statutes
Bureau

Mr. Gary Poulson
Assistant Revisor of Statutes
411 West, State Capitol
Madison, Wisconsin 53702

RE: Clearinghouse Rule 84-9;
In the Matter of the Adoption of TRANS 6,
Wisconsin Administrative Code, Relating
to the Rural and Small Urban Area Public
Transportation Assistance Program

Dear Mr. Poulson:

Enclosed for filing, pursuant to sec. 227.023, Wis. Stats., is a certified copy of CR 84-9, an administrative rule relating to the rural and small urban area public transportation assistance program. An additional, uncertified copy of CR 84-9 is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

Connie S. Keator

Connie S. Keator
Legal Assistant

CK
Enclosure
cc: Sue Mattka
Skip Schneider
Doug Haist/John Hartz
Ron Morse/Dick Martin