

CR 88-139

CERTIFICATE

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STATE OF WISCONSIN)
) s.s.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, RONALD R. FIEDLER, Secretary of the Wisconsin Department of Transportation and custodian of the official records do hereby certify that the rule relating to a program to guarantee loans to disadvantaged businesses was duly approved and adopted by this department on November 14, 1988.

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 thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 14th day of November, 1988.

RONALD R. FIEDLER, P.E.
Secretary

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STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

IN THE MATTER OF THE ADOPTION OF	*	
CHAPTER TRANS 404, WISCONSIN	*	ORDER
ADMINISTRATIVE CODE, RELATING TO	*	ADOPTING
A PROGRAM TO GUARANTEE LOANS TO	*	RULE
DISADVANTAGED BUSINESSES	*	

Analysis Prepared by the Wisconsin Department of Transportation

General Summary of Rule. The purpose of this rule is to provide increased access to working capital for disadvantaged businesses. A disadvantaged business is defined by the law as one that is owned and controlled by a member or members of a minority group or women. This program will guarantee short-term loans made by banks and other financial institutions to disadvantaged businesses for working capital in order to purchase the equipment and other materials necessary to participate in construction contracts with the Department of Transportation.

Final Regulatory Flexibility Analysis. This rule is designed to assist disadvantaged businesses in securing short-term loans. It will improve access to capital and enhance small business opportunities in Wisconsin.

Final Fiscal Estimate. The costs of the program shall not exceed the \$300,000 authorized by 1987 Wisconsin Act 399.

Contact Persons. This rule was prepared by David Manning, Director of Minority Business Development, Wisconsin Department of Transportation (608/266-2910) and Jerry L. Hancock, Assistant General Counsel, Wisconsin Department of Transportation (608/266-8810).

The Department of Transportation hereby creates s. Trans 404, Wisconsin Administrative Code, interpreting s. 85.25(4), Stats., as created by 1987 Wisconsin Act 399, as follows:

SECTION 1. Chapter Trans 404 is created to read:

CHAPTER TRANS 404

GUARANTEE OF MOBILIZATION LOANS FOR DISADVANTAGED BUSINESSES

Trans 404.01 Purpose and Scope

Trans 404.02 Definitions

Trans 404.03 Selection of Business Development Organization

Trans 404.04 Conditions for Eligibility of a Disadvantaged
Business for a Guaranteed Loan

Trans 404.05 Conditions for the Guarantee of a Mobilization Loan
by a Business Development Organization.

Trans 404.01 PURPOSE AND SCOPE. As authorized by s. 85.25(4), Stats., as created by 1987 Wisconsin Act 399, the purpose of this chapter is to establish a program to assist disadvantaged businesses in obtaining working capital in order to participate in construction contracts with the department of transportation.

Trans 404.02 DEFINITIONS. The Definitions in s. 85.25(2), Stats., apply to this chapter. In addition, in this chapter, "department" means the department of transportation and "year" means 365 consecutive days.

Trans 404.03 SELECTION OF BUSINESS DEVELOPMENT ORGANIZATION. The department may make grants to a business development organization in order to provide funding for the guarantee of a mobilization loan provided that the business development organization:

(1) Is the Wisconsin housing and economic development authority; or

(2) Is a non-profit corporation; and

(a) Has a minimum of 5 years experience developing business and loan plans for small businesses; and

(b) Has a minimum of 5 years experience providing management and technical assistance to small businesses; and

(c) Has demonstrated a commitment to securing financing for minority and women-owned businesses; and

(d) Has demonstrated a commitment from other lending institutions to participate in the program.

(3) Any business development organization selected by the department shall allow the department to audit at any time the monies conveyed to the organization for the operation of the program and individual loans guaranteed under this chapter.

(4) Any business development organization selected by the department shall enter into a written agreement with the department.

Trans 404.04 CONDITIONS FOR ELIGIBILITY OF A DISADVANTAGED BUSINESS FOR A GUARANTEED LOAN. (1) Any business applying for a guaranteed loan must be certified as a disadvantaged business by the department; and

(2) Any business applying for a guaranteed loan must have a current contract with the department or a current sub-contract for work let by the department; and

(3) Any business applying for a guaranteed loan must have a demonstrated ability to perform the work of the contract or sub-contract.

Trans 404.05 CONDITIONS FOR THE GUARANTEE OF A MOBILIZATION LOAN BY A BUSINESS DEVELOPMENT ORGANIZATION. (1) The total loan

qualifies as a mobilization loan.

(2) The total of the principal amounts of all loans extended to the borrower during a single year may not exceed 100% of the contract amount.

(3) The rate of interest on the loan, including any origination fees or other charges relating to the loan, may not exceed a rate to be determined by the business development organization.

(4) Upon completion of a contract with the department, the proceeds shall be co-paid to the lender and the disadvantaged business by the department. If the disadvantaged business is a subcontractor, the prime contractor shall co-pay the disadvantaged business and the lender.

(5) The term of the loan shall be for a maximum of 6 months. If requested, an extension shall be considered on a case-by-case basis.

(6) The proceeds of the loan shall only be used for new contract work with the department. Refinancings of prior contract work with the department are not eligible. Loans to any disadvantaged business may not exceed a total of \$250,000 within a 180-day period.

(7) The business development organization shall guarantee repayment up to 90% of the principal of any mobilization loan eligible for guarantee. Any origination fees or other charges related to the loan can be financed; however, they may not be guaranteed by the business development organization.

(8) The participating lender obtains a security interest in any machinery and equipment resulting from the use of the loan proceeds and an assignment of the contract proceeds from the department and the prime contractor for repayment of the loan.

(9) (a) A participating lender shall determine when a guaranteed loan is in default, except that any guaranteed loan not repaid in 6 months (or at the end of a specified extension) following the origination of the loan is in default. Upon default, if there is any deficiency remaining after the participating lender has enforced to the fullest extent possible the security interest taken in any machinery and equipment purchased with the loan proceeds and has collected any proceeds due from the department or the prime contractor, the participating lender may notify the business development organization.

(b) Not more than 60 days after accepting notice of enforcement and deficiency under par. (a), the business development organization shall pay to a participating lender, from the disadvantaged business mobilization loan program fund, the amount of the deficiency.

(c) Neither the department nor the business development organization shall be responsible for reimbursing the lender for any expenses incurred during the collection of any defaulted payments.

(10) (a) The business development organization shall enter into a guarantee agreement with any bank, credit union, savings and loan association, or other person who makes mobilization loans and who wishes to have those loans guaranteed under this section.

The business development organization may determine all of the following, consistent with this section:

1. The form of the agreement.

2. Any conditions upon which the business development organization may refuse to enter into such agreement.

3. Any procedures required to carry out the agreement.

(b) The business development organization may not use any monies other than those in the disadvantaged business mobilization assistance program to guarantee a mobilization loan under this section.

(11)(a) The business development organization will submit a report annually to the department summarizing the status of the program.

(b) The total principal amount of all mobilization loans which may be guaranteed by the business development organization at one time cannot exceed \$1,500,000.

(c) The business development organization shall cease to guarantee any mobilization loans when the amount of unexpended funds in the disadvantaged business mobilization assistance program is equal to or less than \$100,000.

(d) The business development organization shall cease to guarantee mobilization loans at the request of the department. The business development organization shall transfer the balance of any unexpended funds in the program fund to the department 30 days after payment in full of the last loan.

(12) The business development organization shall maintain the record of each loan for a period of at least 3 years from the date of final payment.

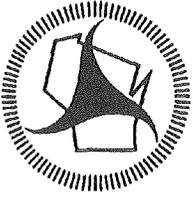
(END OF TEXT)

This rule shall take effect upon the first day of the month following publication in accordance with s. 227.22(2), Stats.

Signed at Madison, Wisconsin,
this 14th day of November,
1988.



RONALD R. FIEDLER, P.E.
Secretary
Wisconsin Department of
Transportation



Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Ronald R. Fiedler, PE
Secretary

OFFICE OF GENERAL COUNSEL
P. O. Box 7910
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November 14, 1988

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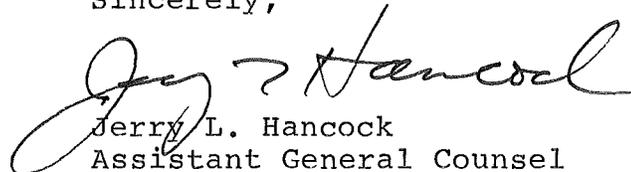
Mr. Gary Poulson
Assistant Revisor of Statutes
30 West Mifflin Street
Suite 702
Madison, Wisconsin 53703

RE: Clearinghouse Rule 88-139
In the Matter of the Adoption of Trans 404, Wisconsin Administrative Code, Relating to a Program to Guarantee Loans to Disadvantaged Businesses

Dear Mr. Poulson:

Enclosed for filing, pursuant to sec. 227.20, Wis. Stats., is a certified copy of CR 88-139, an administrative rule relating to a program to guarantee loans to disadvantaged businesses. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,


Jerry L. Hancock
Assistant General Counsel

JLH/jj

Enclosure

cc: Tom Walker
Maynard Schneider
Marvin Schaeffer
David Manning