

CR 88-202

RULES CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPT. OF INDUSTRY,)
LABOR & HUMAN RELATIONS)

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, John T. Coughlin, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Wisconsin Job Opportunity Business Subsidy Program (WisJOBS) were duly approved and adopted by this department on March 17, 1989.

I further certify that said 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 at 10:00 a.m. in the city of Madison, this 17th day of March A.D. 1989.

John T. Coughlin
Secretary

6-1-89

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ORDER OF ADOPTION

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 101.02(1) and 101.35(10)(b)4,

Stats., the Department of Industry, Labor and Human Relations creates;
 amends; repeals and recreates; repeals and adopts rules of Wisconsin
Administrative Code chapter (s):

ILHR 830.01 - 830.11 Wisconsin Job Opportunity Business Subsidy
(Number) (Title) Program (WisJOBS)

The attached rules shall take effect on the first day of the month following
publication in the Wisconsin Administrative Register pursuant to section
227.22, Stats.

Adopted at Madison, Wisconsin, this

date: March 17, 1989

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN
RELATIONS

John T. Coughlin
Secretary

SECTION 1. Chapter ILHR 830 is created to read as follows:

ILHR 830

WISCONSIN JOB OPPORTUNITY BUSINESS SUBSIDY PROGRAM (WISJOBS).

ILHR 830.01 PURPOSE. This chapter is created to establish the rules which shall govern the Wisconsin job opportunity business subsidy program (WisJOBS) authorized under s. 101.35, Stats.

ILHR 830.02 DEFINITIONS. Unless otherwise provided in a particular section, the following words and phrases have the designated meaning:

- (1) "Administrative costs" means all expenses other than wage subsidy expenses which are necessary and reasonable to effectively manage a WisJOBS grant.
- (2) "AFDC" means aid to families with dependent children.
- (3) "Applicant" means any individual who applies for a WisJOBS position.
- (4) "Business" means any person engaged in a business enterprise for profit in Wisconsin and meeting all federal, state and local laws, rules and regulations required to operate as an employer.
- (5) "Client" means any eligible job applicant who has begun employment in a qualified business.
- (6) "CPA" means certified public accounting.
- (7) "DETP" means the division of employment and training policy within the department of industry, labor and human relations.
- (8) "DETP grantee" means a local service agency receiving a WisJOBS grant directly from DETP.
- (9) "Eligible job applicant" means an individual who meets all of the following:
 - (a) Has been a resident of Wisconsin for at least one month;
 - (b) Is unemployed; and
 - (c) Is determined likely to be available to fill a position with a qualified business for the duration of the position or for twelve months after the subsidy ends, whichever is longer.
- (10) "Employer" means a business which employs WisJOBS clients.
- (11) "Farm household" means one or more persons sharing a single residence on a farm where the primary occupation of the household is the operation of the farm premises.

- (12) "Farmer" means a person whose primary occupation is the operation of a farm premises.
- (13) "FDIC" means federal deposit insurance corporation.
- (14) "Female owned business" means a business that is at least 51% owned, controlled and actively managed by a woman or women.
- (15) "FSLIC" means federal savings and loan insurance corporation.
- (16) "Grant" means an agreement between DETP and the grantee whereby DETP provides funds to carry out specific programs, services, or activities.
- (17) "Grantee" means an organization or agency receiving a WisJOBS grant directly or indirectly from DETP.
- (18) "Grantor" means DETP or a grantee which grants funds to another entity.
- (19) "Immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.
- (20) "Local service agency" means an organization located within the boundaries of the eligible county or which provides a substantial amount of services within the boundaries of that county and that is either of the following:
 - (a) A nonprofit organization primarily organized to do one or more of the following: recruit low income clients for participation in employment and training programs; vocational counseling or training; job training or development; or a related activity;
 - (b) A private industry council organized under the federal job training partnership act of 1982 (PL 97-300 29 USC1501-1781 as amended).
- (21) "Minority business" means a business entity which is at least 51% owned, controlled and actively managed by a minority group member or members who are U.S. citizens or lawfully admitted to the U.S. for permanent residency and as further defined in s. 560.036(1)(e), Stats.
- (22) "PPM" means WisJOBS policies and procedures manual.
- (23) "Qualified business" means a business which has submitted the following to a grantee and had it accepted:
 - (a) A description of the duties and wages paid for each position that the business intends to fill with an eligible job applicant;
 - (b) A description of how the wage subsidy will help the business succeed and lead to the continued employment of the client.
- (24) "RFP" means request for proposals.

- (25) "Secretary" means the secretary of the department of industry, labor and human relations.
- (26) "Severe financial need of a farm household" means a monetary situation that does not allow the farm premises to be used for primary employment by a member or members of the farm household. The farm household has met the severe financial need criteria if one or more of the following can be demonstrated:
- (a) A notice of foreclosure or intent to foreclose upon the farm premises has been issued;
 - (b) The farm has not realized a profit during the 12 months immediately preceding;
 - (c) The farm household has filed a petition in bankruptcy or has been adjudicated bankrupt;
 - (d) The farm household cannot obtain capital necessary to continue operations;
 - (e) The farm household owes outstanding payments on a loan to finance farm premises; or
 - (f) The amount of the farm household's debts totals at least 70% of the amount of the farm household's assets.
- (27) "Small business" means a business entity, including its affiliates, which is independently owned and operated and which employs fewer than 25 full time employees or which has gross annual sales of less than \$2,500,000.
- (28) "Subgrantee" means an organization or agency receiving a grant of WisJOBS funds from any grantee.
- (29) "Training" means classroom or other formal training beyond intake or assessment normally associated with training program entry or new employee orientation.
- (30) "WisJOBS" means Wisconsin job opportunity business subsidy program.
- (31) "WORKS" means WisJOBS on-line record keeping system.
- (32) "Work supplementation program (WSP)" means grant diversion project funding for families receiving AFDC.

ILHR 830.03 ADMINISTRATION. The DETP is responsible for soliciting, reviewing and recommending proposals for grants to be awarded to DETP grantees; for executing grants with DETP grantees; for authorizing payments and otherwise implementing obligations entailed in grants made under the terms of this chapter; for monitoring the provision of services; for evaluating program performance; for developing and receiving required reports; and for ensuring that audits are conducted.

ILHR 830.04 PROPOSAL REVIEW. (1) PRELIMINARY SCREENING. The DETP shall conduct preliminary screening for all proposals. Proposals that meet the initial screening criteria shall qualify for referral to the review panel.

- (2) REVIEW PANEL. The review panel shall make recommendations to the division administrator on the selection of grantees based on a RFP. The panel shall consider all of the factors listed in s. 101.35, Stats., and the RFP.
- (3) DIVISION RECOMMENDATION. The division administrator shall receive the recommendations and supporting materials for the recommendations for all proposals that were rated by the review panel, and shall make recommendations to the secretary.
- (4) PROPOSAL SELECTION. The secretary shall receive and review the recommendations from the division administrator and review panel and shall render a final decision on funding.

ILHR 830.05 POLICIES AND PROCEDURES MANUAL. The DETP shall develop a WisJOBS PPM which shall be provided to all WisJOBS grantees. The DETP is responsible for updating the manual as necessary and for providing the updates to grantees.

ILHR 830.06 ASSURANCES AND CERTIFICATIONS. In carrying out WisJOBS programs, the grantee assures that it is aware of and shall comply with the following assurances and certifications:

- (1) SIGNATORY AUTHORITY. Grantees of WisJOBS funds shall possess the following legal authority to participate in a grant:
 - (a) Signatory official. The grantee assures that the designated signatory official holds the legal authority to accept these funds.
 - (b) Grantee authority. The grantee assures that it possesses the legal authority to participate in the WisJOBS grant. A resolution, motion or similar action has been duly adopted or passed as an official act of the grantee's governing body authorizing participation in the grant, including all understandings and assurances contained therein, and directing and authorizing the person identified as the grantee's official representative to act in connection with the grant and to provide such additional information as may be required.
- (2) COMPLIANCE STATEMENT. The grantee assures that it shall comply with all applicable laws, rules, and regulations.
- (3) NONDISCRIMINATION AND EQUAL OPPORTUNITY STATEMENT. The grantee assures that it shall not discriminate and shall follow equal employment opportunity practices in conducting WisJOBS programs. No client, staff person or administrator shall be discriminated against, denied benefits, denied employment, or excluded from participation in connection with any WisJOBS program on the basis of race, color, creed (religion), sex, national origin (ethnic status), age, handicap, marital status, offender status, sexual orientation, political affiliation or belief, arrest record or conviction record.
- (4) VIOLATIONS OF NONDISCRIMINATION AND EQUAL OPPORTUNITY. The DETP shall establish corrective action measures to be taken within a prescribed time frame for any WisJOBS grantee found in violation of non-discrimination

and equal opportunity provisions. The corrective action plan shall describe sanctions that shall be imposed for failing to comply. Other sanctions may result from referral to the appropriate civil rights enforcement agency for conciliation, referral to the appropriate law enforcement agency for prosecution, or other action provided by law.

- (5) **ADEQUATE AND DOCUMENTED SYSTEMS.** The grantee assures that it has adequate and documented administrative, personnel, financial and program management systems, including policies, procedures and controls necessary to ensure the effective and efficient use of funds for delivery of program services.
- (6) **CONFLICT OF INTEREST.** The grantee shall comply with the provisions of conflict of interest described as follows:
 - (a) Casting of votes. No member of any governing board or committee thereof, may cast a vote on the provision of services by that member, or any organization which that member directly represents, or vote on any matter which would provide direct financial benefit to that member.
 - (b) Use of position. The grantee shall prohibit its employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by a desire for private gain for themselves or those with whom they have family, business, or other ties.
 - (c) Appearance of conflict. The grantee and its personnel shall avoid organizational and personal conflict of interest and the appearance of conflict of interest.
- (7) **KICKBACKS.** No officer, employee or agent of the grantee may solicit or accept gratuities, favors or anything of monetary value from any person in return for preferential treatment.
- (8) **COMMINGLING OF FUNDS.** The grantee shall maintain accounting records which adequately identify separate deposits and expenditures for each WisJOBS grant.
- (9) **CHARGING OF FEES.** The grantee shall ensure that no individual is charged a fee for being referred to or placed in WisJOBS-subsidized employment.
- (10) **NEPOTISM.** The grantee shall comply with the provisions of nepotism described as follows:
 - (a) Hires, promotions and salaries. No board member or employee of the grantee may recommend or decide to hire, promote, or establish the salary of another person when the person affected is a member of his or her immediate family.
 - (b) Supervision and management. No board member or employee of the grantee may give preferential treatment in the supervision or management of another employee who is a member of his or her immediate family.

- (11) CHILD LABOR. The grantee shall comply with applicable federal, state and local child labor laws.
- (12) POLITICAL PATRONAGE. The grantee shall prohibit political patronage described as follows:
- (a) Rewards. The grantee may not select, reject, or promote a client or staff person based on the individual's political affiliation or beliefs, or as a reward for political services, or as a form of political patronage.
 - (b) Referrals. The grantee may not refer clients to WisJOBS programs based on political patronage or affiliation.
- (13) POLITICAL ACTIVITIES. The grantee shall comply with the provisions of partisan or non-partisan political activities described as follows:
- (a) Hours. Neither grantee staff nor clients may engage in partisan or non-partisan political activities during hours for which they are paid with DETP funds.
 - (b) Representation. Neither grantee staff nor clients may engage in either partisan or non-partisan political activities in which they represent themselves as spokespersons for the WisJOBS program.
- (14) SECTARIAN ACTIVITIES. WisJOBS funds may not be used to attempt to support either religious or anti-religious activities.
- (15) UNION ACTIVITIES. The grantee shall comply with the provisions of union activities described as follows:
- (a) Union consultation. The grantee and employer shall consult with the appropriate labor organization prior to placing a WisJOBS-subsidized employee into a position covered by a collective bargaining agreement.
 - (b) Deductions for dues or fees. Employers may deduct union dues or service fees for WisJobs-subsidized employees according to applicable collective bargaining agreements or state laws.
 - (c) Unionization activities and work stoppages. The grantee assures that WisJOBS funds will not be used for unionization activities and work stoppages described as follows:
 - 1. WisJOBS funds may not be used in any way to promote or oppose unionization;
 - 2. No client may be placed in, or remain working in, any position affected by a labor dispute involving a work stoppage, or strike;
 - 3. No WisJOBS program may impair existing contracts for services or collective bargaining agreements.

(16) MAINTENANCE OF EFFORT. The grantee shall comply with the maintenance of effort provisions described as follows:

(a) Displacements. WisJOBS programs shall subsidize new positions which result in an increase in the number of jobs over those which would otherwise be available with the employer; and may not result in the total or partial displacement of currently employed workers, or reduction in hours of non-overtime work and wages available to or worked by a current employee authorized under s. 101.35(8), Stats.

(b) Hiring freezes. WisJOBS clients may not be hired into, or remain working in, any position when the same or a substantially equivalent position is vacant due to a hiring freeze.

(c) Layoffs. WisJOBS clients may not be hired into, or remain working in, any position when any person who is not funded by WisJOBS is on layoff from the same or a substantially equivalent position in the same organizational unit of the employer. For the purposes of this paragraph, a layoff is in effect until the expiration of the period required by a recall list; or if no recall list or reemployment rights exist, for a period of one year from the last layoff or until the next operating year of the department or agency, whichever occurs later.

(17) CRIMINAL PROVISIONS. The grantor shall initiate action to prosecute to the full extent of the law any officer, director, agent or employee of a grantee or employer receiving WisJOBS funds who commits any of the following acts:

(a) Enrollment of ineligible. Knowingly hiring or enrolling an ineligible individual;

(b) Misapplication or theft of funds. Embezzling, willfully misapplying, stealing, or obtaining by fraud any funds which are the subject of a WisJOBS grant;

(c) Inducement or threats. Inducing another person to give up money or something of value to a person or grantee by threat of dismissal or refusal to renew a WisJOBS grant;

(d) Obstructing or impeding investigations or inquiries. Willfully obstructing or impeding, or attempting to obstruct or impede, an investigation or inquiry into activities relating to a WisJOBS grant when those activities are alleged to be criminal or a violation of the law, this chapter or the PPM;

(e) Promising special consideration. Directly or indirectly promising any wage reimbursement contract as special consideration, favor, or reward for any political activity; or

(f) Coersion. Coercing another individual into making a political contribution by denying, or threatening to deny, employment or benefits under a WisJOBS grant.

- (18) **RESPONSIBILITY FOR PREVENTING FRAUD AND ABUSE.** The grantee shall be responsible for the provisions to prevent fraud and abuse described as follows:
- (a) Establish and utilize management procedures. The grantee shall establish and use internal program and fiscal management procedures sufficient to prevent fraud and program abuse.
 - (b) Maintain sufficient and adequate records. The grantee shall ensure that sufficient auditable and otherwise adequate records and documentation are maintained which support the expenditure of all WisJOBS funds. Such records shall be sufficient to allow the DETP or the state of Wisconsin to audit and monitor the WisJOBS program.
 - (c) Establish procedures and conduct monitoring. The grantee shall establish monitoring procedures to periodically monitor and review through on-site visits and program data, all program activities supported with funds under a WisJOBS grant to ensure compliance with the appropriate legislation, this chapter and the PPM.
 - (d) Report allegations or complaints. Any person who becomes aware of an allegation or complaint about possible fraud, misfeasance, nonfeasance, malfeasance, misapplication of funds, gross mismanagement, and employer, employee, or client misconduct involving WisJOBS programs or operations shall immediately report such incidents to the district attorney for the county in which the alleged violation took place and simultaneously transmit a copy of the report to the DETP.
- (19) **LIABILITY.** The grantee shall assure that it will comply with the following provisions of liability:
- (a) Liability for claims. Neither the state of Wisconsin nor the DETP may assume any liability with respect to bodily injury, illness, or any other damages or losses, or with respect to any claims arising out of any activities undertaken under a WisJOBS grant or agreement, whether concerning persons or property in the grantee's organization or third parties. The grantee shall insure or otherwise protect itself with regard to activities under the grant. As evidence of ability to assume potential liability beyond that which is covered by insurance, the grantee shall submit the following to the DETP:
 - 1. Evidence that such liability is underwritten by a unit or units of local government; or
 - 2. Assurance of ability to meet risks inherent to program activities under the grant.
 - (b) Bonding coverage. The grantee shall provide bonding coverage for every officer, director, agent, or employee authorized to receive or deposit DETP funds in program accounts, or to issue financial documents, checks or other instruments of payment for grant costs. The amount of bonding shall be the lower of the following:

1. \$100,000 or
 2. The highest monthly expenditure planned for the present grant year.
- (c) Bonding cancellation. The grantee shall immediately notify the DETP if the bond is cancelled or reduced.
- (d) Liability for disallowed costs. The grantee shall assume liability for any costs disallowed by the DETP because of violations of provisions in applicable laws, this chapter, the PPM, or the individual grant or contract. The DETP reserves the right to withhold payment of costs from current WisJOBS grants if the grantee fails to comply with the provisions of its grant agreement.
- (20) PROGRAM SPECIFICATIONS. The grantee assures that it shall comply with the following program specifications:
- (a) Qualified business priorities. In allocating funds, the grantee shall give priority to qualified businesses which meet the criteria authorized under s. 101.35(10), Stats.
- (b) Identification of qualified businesses. The grantee shall develop written procedures for identifying qualified businesses, including those that meet the qualified business priorities authorized under s. 101.35(10), Stats.
- (c) Grant diversion funding. The grantee shall document the results of its attempts to obtain AFDC grant diversion funding authorized under s. 101.35 (10)(c), Stats.
- (d) County area emphasis. The grantee shall document the results of its attempts to subsidize wages for positions in areas of the greatest unemployment authorized under s. 101.35(10)(d), Stats.

ILHR 830.07 COST DETERMINATION. (1) GENERAL PRINCIPLES AFFECTING ALLOWABILITY OF COSTS. Grantee expenses shall meet the following general criteria in order to be allowable:

- (a) Necessary and reasonable. Expenses shall be necessary and reasonable for proper and efficient administration of the WisJOBS program, be allocable thereto, and not be a general expense required to carry out the overall responsibilities of the grantee;
- (b) Authorized or not prohibited. Expenses shall be authorized or not prohibited under state or local laws, rules or regulations;
- (c) Conform to limitations or exclusions. Expenses shall conform to any limitations or exclusions set forth in applicable law, this chapter, or the PPM;

- (d) Consistent with grantee activity. Expenses shall be consistent with policies, regulations, and procedures that apply uniformly to other activities of the agency of which the grantee is a part;
 - (e) Consistent with accepted accounting principles. Expenses shall be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances; and
 - (f) Documentable. Expenses shall be adequately documented.
- (2) COST LIMITS. The grantee shall comply with the following cost limits:
- (a) Administration. A grantee may not expend more than 10% of total grant expenditures for administrative costs associated with the WisJOBS program. Compliance will be determined as of the end of the grant.
 - (b) Subsidized wages. A grantee shall expend at least 80% of total grant expenditures to subsidize wages for clients who meet the criteria authorized under s. 101.35 (10)(b), Stats. Compliance will be determined as of the end of the grant.

ILHR 830.08 ADMINISTRATIVE REQUIREMENTS. The following requirements apply to all WisJOBS grantees:

- (1) ACCESS, RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS. The grantee shall comply with the following requirements for the access, retention and custody of records:
 - (a) Access to records. The grantee shall maintain and provide access to WisJOBS records and cooperate with monitoring, auditing and evaluation activities described as follows:
 - 1. The grantee shall maintain records and provide access to them as necessary for the DETP to assure that funds are being expended in accordance with the purposes and provisions of the WisJOBS PPM, and to assist the DETP in determining the extent to which the program meets the requirements of the PPM, this chapter and s. 101.35, Stats.
 - 2. The grantee shall give the state of Wisconsin and the DETP, through any authorized representative, the access to and the right to examine all records, books, papers, or documents related to its WisJOBS grant and contracts.
 - 3. The grantee shall cooperate with monitoring, auditing and evaluation activities regarding its WisJOBS program, including unannounced monitoring visits conducted by the DETP.
 - 4. The grantee shall retain and make records available to the public in accordance with applicable laws governing open records and freedom of information.

- (b) Retention of records. The grantee shall retain the following records for three years beyond resolution of any applicable litigation, audit findings, or claims:
1. All records pertinent to each client's enrollment in the WisJOBS program, including wage information, dates of entry and termination, and documentation of eligibility.
 2. All records pertinent to its WisJOBS grant agreement, including financial and statistical records and supporting documents.
- (c) Custody of records. The grantee shall provide custody of WisJOBS records. The grantee's custodial requirements may be discontinued in accordance with the following:
1. The DETP may request transfer of certain records to its custody from the grantee if the grantee is no longer able to maintain custody of those records.
 2. The grantee shall provide the DETP with 30 days advance notice if it intends to discontinue maintenance of its records before the end of the mandatory retention periods indicated above.
- (2) STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS. The grantee assures it shall comply with the following standards for financial management systems:
- (a) Written procedures. The grantee shall establish written procedures documenting its financial management system.
- (b) Financial management systems. The grantee's financial management systems shall provide for the following:
1. Effective internal controls to adequately safeguard assets from waste, fraud and abuse and from unauthorized purposes and inefficient use; promote accuracy and reliability in the accounting records; and encourage and measure compliance with this document, state and local laws and regulations, where applicable.
 2. Accounting records that adequately identify the source and application of DETP funds and are properly supported by source documentation. These records shall contain information pertaining to DETP grant awards, authorizations, revenues, expenditures, assets, obligations, and unobligated balances.
 3. Determining the reasonableness, allowability and allocability of expenses in accordance with the provisions for cost determination in this chapter and the terms of the grant or other agreement.
 4. Accurate, current and complete disclosure of the financial results of each grant in accordance with the DETP reporting requirements identified in the PPM.

5. Comparison of actual expenditures with budget amounts.
 6. Development of financial information that relates to performance and unit cost data.
 7. Procedures to reduce excess cash by minimizing the time elapsing between the transfer of funds from the DETP and the disbursement by the grantee. The DETP may require corrective action to reduce excess cash if the grantee consistently fails to conform to DETP guidelines for excess cash in the PPM. The DETP may charge the grantee an interest assessment on funds that are in excess of immediate needs. The DETP may seek recovery of funds in the event of serious abuse.
 8. Deposit of DETP funds in interest bearing account(s) insured by the FDIC or the FSLIC. Account balances exceeding FDIC or FSLIC coverage must be collaterally secured. Grantees are not required to account to the DETP for interest income and may retain interest earned on DETP funds.
- (c) Corrective action. The DETP may require corrective action by a specific date if the grantee's financial management system fails to meet the standards set forth in this subsection. Grantees who fail to take corrective action in the time given are subject to having costs withheld or disallowed.
- (3) INVOICING PROCEDURES. The grantee shall submit requests in accordance with the procedures in the PPM to receive cash advances or reimbursements.
- (4) FINANCIAL REPORTING REQUIREMENTS. The grantee shall comply with the following financial reporting requirements:
- (a) Financial reports. The grantee shall submit accurate and timely financial reports as required by the PPM. Such reports include statements of accrued expenditures, aged accounts receivable reports and settlement and closeout reports.
 - (b) Late and inaccurate reports. In the event that required reports are not accurate or are not submitted on a timely basis, the DETP may withhold payment of the grantee's costs incurred under the current grant or subsequent active grants until the required reports are received.
 - (c) Additional reports. The grantee may be required to submit additional reports requested by DETP for the performance of its legal responsibilities.
- (5) MONITORING. The grantee shall comply with the following monitoring requirements:
- (a) Program and financial monitoring. The grantee shall conduct sufficient program, financial and compliance monitoring to ensure that each employer complies with the terms of its contract and the appropriate laws, this chapter and the PPM.

- (b) Monitoring records. The grantee shall maintain adequate records to verify that required monitoring, corrective action and follow-up have occurred.
- (6) PROCUREMENT STANDARDS. These procurement standards apply to the procurement of property, supplies, equipment, consultants, and professional services. The grantee shall comply with the following procurement standards:
- (a) Written procedures. The grantee shall establish written procurement procedures that, to the maximum extent practical, provide for the following:
1. Open and free competition. This includes the requirement that for a particular procurement, a grantee who develops specifications, the statement of work, an invitation for bids, a request for proposals, or evaluates or recommends such proposals, shall not be eligible to compete for the procurement.
 2. Consideration of both price, and the contractor's potential ability to meet specifications.
 3. Avoidance of purchasing unnecessary or duplicative goods or services.
 4. Consideration of small businesses; minority owned businesses; and female owned businesses.
 5. Review of compliance with the terms of each grant or contract initiated by the grantee.
- (b) Documentation. Each grantee shall maintain documentation showing compliance with its own written procurement procedures.
- (c) Grantee-employer agreement. Prior to the payment of a wage subsidy, a grantee-employer agreement shall be signed by both parties. The agreement shall comply with the provisions required in the PPM.
- (d) Code of conduct. Each grantee shall maintain a written code of conduct that shall govern the performance of its officers, employees or agents engaged in the administration of contracts and WisJOBS grants. The code of conduct shall provide the following:
1. Prevent conflict of interest.
 2. Prevent nepotism.
 3. Forbid the solicitation or acceptance of gratuities, favors, or anything of monetary value from contractors or grantees or potential contractors or grantees.

4. Provide penalties for violation of the code of conduct.
- (e) Less than arm's length agreements. In some cases, there may be agreements which are made at less than arm's length, that is, where one party to the agreement is able to control or substantially influence the actions of the other. These agreements may be considered allowable at the discretion of the DETP. These agreements include, but are not limited to, those between the following:
 1. Sub-units of a grantee;
 2. Grantees under common control through common officers, directors, or members; or
 3. A grantee and a director, trustee, officer, or key employee of the grantee or his or her immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.
- (7) CONDITIONS FOR WAGE SUBSIDY PAYMENTS FROM GRANTEES TO EMPLOYERS. The grantee shall comply with the conditions for wage subsidy payments from grantees to employers in accordance with the PPM and s. 101.35(5), Stats.
- (8) AUDIT AND AUDIT RESOLUTION. The grantee shall comply with the following provisions for audit and audit resolution:
 - (a) Units of government. Grantees that are units of government shall have a single organization-wide financial, compliance and eligibility audit, including this grant, performed by an independent CPA firm and conducted in accordance with the single audit act and the state single audit guidelines.
 - (b) Non-units of government. Grantees that are not units of government shall procure an annual financial, compliance and eligibility audit of these funds performed by a qualified CPA firm in accordance with the office of management and budget Circular A-110, uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other nonprofit organizations, and Wisconsin single-audit guidelines.
 - (c) Audit costs. The cost of the audit shall be borne by the grantee.
 - (d) Audit resolution process. The grantee shall comply with the audit resolution process in accordance with the PPM.
 - (e) Subgrant audits. Grantees are responsible for developing similar audit resolution and debt collection procedures applicable to their subgrants.
- (9) DEBT COLLECTION. The grantee shall comply with the following provisions for debt collection:
 - (a) Debt collection procedures. Grantees shall develop and institute debt collection procedures to aggressively collect debts.

- (b) Conditions of repayment. In accordance with s. 101.35(11)(a) and (b), Stats., the grantee shall collect repayment of wage subsidies received by employers if a client leaves the position during the subsidy period or during the retention period, and the employer does not replace the client with another eligible job applicant.
- (c) Repayment schedule. The repayment shall be collected according to the following schedule of decreasing liability:
1. 70% if the client leaves while the position is subsidized or within the first month after the wage subsidy ends;
 2. 64% if the client leaves within the second month after the end of the wage subsidy;
 3. 58% if the client leaves within the third month after the end of the wage subsidy;
 4. 52% if the client leaves within the fourth month after the end of the wage subsidy;
 5. 46% if the client leaves within the fifth month after the end of the wage subsidy;
 6. 40% if the client leaves within the sixth month after the end of the wage subsidy;
 7. 34% if the client leaves within the seventh month after the end of the wage subsidy;
 8. 28% if the client leaves within the eighth month after the end of the wage subsidy;
 9. 22% if the client leaves within the ninth month after the end of the wage subsidy;
 10. 16% if the client leaves within the tenth month after the end of the wage subsidy;
 11. 10% if the client leaves within the eleventh month after the end of the wage subsidy;
 12. 4% if the client leaves within the twelfth month after the end of the wage subsidy;
 13. No payback is required if the client leaves the position after the twelve month retention period is completed.
- (d) Debt collection activity. Debt collection activity shall be progressive, from notification of the debt through debt collection, with waivers viewed as a last resort.
- (e) Waiver of debt. A waiver can be sought at any point in the process after the debt has been determined to be uncollectable. Guidelines for making the determination and for pursuing a waiver are provided in PPM. The secretary may grant a waiver of the debt in accordance with s. 101.35(11)(c), Stats.
- (f) Charging of interest. Nothing in this section shall prevent the grantee from being charged interest on the debt at the current rate earned by the Wisconsin state investment fund beginning 30 days after the debt is established.

ILHR 830.09 COMPLAINTS AND APPEALS. The following procedures shall be used in processing complaints on alleged violations of WisJOBS or its regulations:

- (1) GENERAL REQUIREMENTS. The grantee shall comply with the following general requirements of complaints and appeals:
 - (a) Grantee procedures. Each grantee shall establish and maintain complaint, grievance and appeal procedures.
 - (b) Subgrantee procedures. Each grantee shall assure that all subgrantees with which it contracts under WisJOBS are informed of these requirements and that they maintain grievance procedures consistent with such requirements.
 - (c) Employer procedures. Each grantee shall assure that every employer with which it contracts shall maintain a grievance procedure relating to the terms and conditions of employment.
- (2) DISCRIMINATION COMPLAINT FILING PROCEDURE. Any person who believes they have been discriminated against on the basis of race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record or conviction record while applying for, or a participating in a WisJOBS program, may file a complaint with the DILHR equal rights division within 300 days of the action believed to have been discriminatory.
- (3) NON-CRIMINAL VIOLATION OF WISJOBS LAW. The grantee shall comply with the following provisions applicable to non-criminal complaints or grievances:
 - (a) Filing a complaint. Any person who believes or alleges that a violation of WisJOBS s. 101.35, Stats., has occurred, may within one year of the alleged violation file a written complaint with the grantee.
 - (b) Hearing. The grantee shall receive the complaint, and within 30 days conduct a hearing. A final grantee decision shall be issued within 60 days after receipt of the complaint.
 - (c) Appeal. The complainant may appeal the final grantee decision to the DETP within 10 days of receipt of the decision if the complainant is dissatisfied with the decision.
 - (d) Appeal decision. DETP shall review the record and issue a final administrative decision on the appeal within 30 days of receipt.
- (4) NON-CRIMINAL VIOLATIONS OF WISJOBS LAW WHEN DETP IS RESPONDENT. The grantee shall comply with the following provisions applicable to non-criminal complaints or grievances:
 - (a) Filing a complaint. Any person who believes or alleges that the DETP has violated a provision of WisJOBS as described in s. 101.35, Stats., may within one year of the alleged violation file a written complaint with the DETP.

- (b) Hearing. The DETP shall receive the complaint and within 30 days designate a hearing examiner who shall conduct a hearing and issue a decision within 60 days after receipt of complaint.
- (c) Appeal. The complainant may appeal this decision within 10 days of receipt of this decision to the DETP administrator.
- (d) Appeal decision. The DETP administrator shall review the record and within 30 days issue a final administrative decision.
- (5) CRIMINAL VIOLATION OF WISJOBS LAW. Any person who becomes aware of an allegation or complaint about possible fraud, misfeasance, nonfeasance, malfeasance, misapplication of funds, gross mismanagement, or employee or employer misconduct shall report such incidents to the DETP and the district attorney for the county in which the alleged violation took place.

ILHR 830.10 ELIGIBILITY AND ENROLLMENT. (1) ELIGIBILITY. The grantee or its designee shall determine eligibility of applicants for WisJOBS programs in accordance with the criteria established in s. 101.35(9), Stats., and shall comply with all DETP procedures and requirements in the PPM for recording the data necessary to determine eligibility, establish the official record of eligibility and report program outcomes.

- (2) ENROLLMENT TRACKING. The grantee or its designee shall comply with DETP procedures and requirements in the PPM for recording the data necessary to establish and track the official record of enrollment and report program outcomes of eligible job applicants and clients in WisJOBS programs.
- (3) ENROLLMENT SELECTION. The grantee shall select for enrollment only applicants who have been certified eligible for the WisJOBS program. In addition to eligibility, the grantee shall also consider the client target group priorities established in s. 101.35(10)(b) and (c), Stats., when selecting eligible job applicants.
- (4) FOLLOWUP REQUIREMENTS. The grantee and the employer shall submit the necessary follow-up information reports for the WisJOBS program in accordance with DETP procedures and requirements in the PPM.
- (5) DOCUMENTATION REQUIREMENTS. The grantee shall establish procedures for collecting and retaining documentation of compliance with WisJOBS eligibility, enrollment, and follow-up requirements established in the PPM.
- (6) ELIGIBILITY AND ENROLLMENT REPORTING. The grantee shall provide the DETP with timely and accurate eligibility and enrollment data reporting in accordance with the requirements and procedures established in the PPM for monitoring and evaluating the WisJOBS program.

- (7) **PARTICIPATING EMPLOYER DEMOGRAPHICS REPORTING.** For each employer which the grantee determines to be a qualified business and where an eligible job applicant is hired in conformance with a WisJOBS grantee-employer agreement, the grantee shall complete and report the demographic information on participating employers in accordance with the requirements and procedures in the PPM.

ILHR 830.11 GRANT CHANGES. (1) **ASSIGNMENT, SUBLET, SUBCONTRACT, DELEGATION, OR TERMINATION.** Grantees shall neither assign nor transfer any rights or obligations under their grant agreement without prior written approval by the DETP.

- (2) **MODIFICATIONS TO WISJOBS GRANTS.** Any grantee-initiated modifications to a WisJOBS grant which change the total dollars spent or the total number of clients enrolled require prior written approval of the DETP.
- (3) **DEOBLIGATION OF FUNDS.** WisJOBS grants are subject to the following provisions on deobligation of funds:
- (a) **Reallocation.** The DETP reserves the right to reallocate funds awarded to any grantee which are not fully expended, encumbered, or otherwise committed by March 31 of any grant year. The reallocation may be among WisJOBS grantees in other eligible counties according to s. 101.35(4)(c), Stats.
- (b) **Deobligation.** DETP shall consider unused funds at the end of a grant period, or when a grant is terminated, as deobligated.
- (4) **TERMINATION OF WISJOBS GRANT AGREEMENTS.** The DETP reserves the right to immediately terminate a grant, in whole or in part, before the date of completion, under any one of the following conditions:
- (a) **Mutual agreement.** Both parties agree to complete or partial termination;
- (b) **Grant violations.** The DETP determines that the grantee has violated the provisions of the law, regulations, or terms of the grant;
- (c) **Quality of program administration.** The DETP determines that the quality of program administration falls below acceptable industry standards;
- (d) **Non-compliance with goals and objectives.** The grantee is not in compliance with the goals and objectives in its grant, and a modification request has not been submitted to and approved by the DETP;
- (e) **Grantee refusal to accept additional conditions.** The grantee refuses to accept additional conditions imposed by the DETP pursuant to its legal obligations; or
- (f) **Funding availability.** Funds are not available.

- (5) NOTIFICATION OF GRANT TERMINATION. The DETP and the grantee shall comply with the following provisions for notification of grant termination:
- (a) DETP-initiated termination. The DETP shall provide the grantee with prompt written notice and an opportunity for a hearing within 30 days after determining that it will take termination or reallocation action. Such notice shall describe the termination or reallocation action to be taken, reasons for termination or reallocation, and the effective date.
 - (b) Grantee-initiated termination. If termination is initiated by a grantee, the grantee shall notify DETP at least 90 days prior to the intended date of termination.
 - (c) Complaints and appeals. When a decision issued by the DETP adversely affects the interests of a grantee, it may be appealed according to DETP procedures for complaints and appeals in this chapter.
- (6) PROTECTION OF INTEGRITY OF FUNDS. The DETP may take whatever action is necessary, including legal action, to reclaim misspent funds, to protect the integrity of the funds, or to ensure the proper operation of WisJOBS programs.

Pursuant of s. 227.22 (2), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

RULES#25-1



State of Wisconsin \ Department of Industry, Labor and Human Relations

RECEIVED

MAR 17 1989

Office of the Secretary
201 E. Washington Avenue
P.O. Box 7946
Madison, Wisconsin 53707
Telephone 608/266-7552

March 17, 1989-

Revisor of Statutes
Bureau

Gary Poulson
Assistant Revisor of Statutes
Suite 904
30 West Mifflin Street
Madison, Wisconsin 53703

Douglas LaFollette
Secretary of State
Room 271, GEF-1
201 East Washington Avenue
Madison, Wisconsin 53702

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 88-202
RULE NO. ILHR 830.01 - 830.11
RELATING TO Wisconsin Job Opportunity Business Subsidy Program (WisJOBS)

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

- 1. Order of Adoption.
- 2. Rules Certificate Form.
- 3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,

John T. Coughlin
Secretary



State of Wisconsin — Joint Committee for Review of Administrative Rules

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APR 24 1989

Revisor of Statutes
Bureau

Senate Co-Chairperson
Senator John Plewa
35 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882
(608) 266-7505

April 20, 1989

Secretary John T. Coughlin
Department of Industry, Labor and Human Relations
Room 400X
201 E. Washington Avenue
Madison WI 53702

Assembly Co-Chairperson
Representative John Antaramian
117 West, State Capitol
P.O. Box 8952
Madison, WI 53708-8952
(608) 266-0455

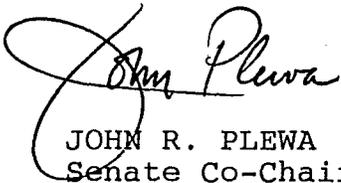
Dear Secretary Coughlin:

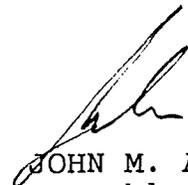
We are writing to inform you that the Joint Committee for Review of Administrative Rules has acted pursuant to its authority under s. 227.24(2), Stats., to extend the emergency rule creating s. ILHR 83.055, Code, relating to the issuance of building permits by governing bodies in areas not served by public sewers and requiring connection to a private sewage system, for a period of 30 days, through May 29, 1989. The committee record is attached.

The rule was extended for only 30 days in order to give the members time to review the differences between the proposed permanent rule and the emergency rule before any further extensions are granted. The department, however, should immediately request a further extension.

Pursuant to s. 227.24(2)(c), Stats., the committee is informing the Secretary for State and the Revisor of Statutes of its action through copies of this letter.

Sincerely,


JOHN R. PLEWA
Senate Co-Chair


JOHN M. ANTARAMIAN
Assembly Co-Chair

JMA:JRP:bmc

cc: Secretary of State La Follette
Revisor of Statutes Prestegard

C O M M I T T E E R E C O R D

JOINT COMMITTEE FOR REVIEW
OF ADMINISTRATIVE RULES

Emergency rule creating s. ILHR 83.055, Code, relating to the issuance of building permits by governing bodies in areas not served by public sewers and requiring connection to a private sewage system.

APRIL 19, 1989

Executive session held.

Moved by Rep. Welch, seconded by Sen. Kincaid, that the Joint Committee for Review of Administrative Rules extend the emergency rule creating s. ILHR 83.055, Code, relating to the issuance of building permits by governing bodies in areas not served by public sewers and requiring connection to a private sewage system, for a period of 30 days, through May 29, 1989.

Ayes: (9) Representatives Antaramian, Fortis, Schneider and Welch; Senators Plewa, Jauch, Kincaid, Kreul and Cowles.

Noes: (0) None.

Absent: (1) Representative Zeuske.



BILL McCLEHAN, Committee Clerk