

CR 94-133

CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)



TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to the **elderly and disabled transportation assistance program for private nonprofit organizations**, was duly approved and adopted by this Department on November 1, 1994.

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 1 day of November, 1994.

Charles H. Thompson

CHARLES H. THOMPSON
Secretary

1-1-95

The Wisconsin Department of Transportation adopts an order **AMENDING** ch. Trans 2(title), Trans 2.01, 2.015(3) and (4), 2.02(1), 2.04(3), 2.045(2)(a), (3) and (5), 2.05(1)(intro.), (d) and (g), 2.06(2)(d) and (3), and 2.09; and **CREATING** Trans 2.015(2m) and (5m), and 2.10, relating to the elderly and disabled transportation assistance program for private nonprofit organizations.

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 85.22 and 227.11(2), Stats.

STATUTE INTERPRETED: s. 85.22, Stats.

General Summary of Rule. This rule is necessitated by the changes to s. 85.22, Stats., by 1993 Wis. Act 437. The amendments to this rule may be summarized as follows:

(1) Expands eligibility to include:

- Local public bodies that certify to the Department that no nonprofit organizations are readily available in the area to provide transportation services to elderly and disabled persons.
- Local public bodies approved by the Department to coordinate transportation services to elderly and disabled persons in the area.

(2) Establishes:

- Requirements for certification that no nonprofit organizations are readily available in the area to provide transportation services to elderly and disabled persons.
- Requirements for coordination of transportation services to elderly and disabled persons for purposes of designating a local public body as an eligible applicant.

(3) Minor administrative changes.

Fiscal Effect. This rule change will have no fiscal impact on local public bodies or on the state.

Final Regulatory Flexibility Analysis. This rule change may have some fiscal impact on organizations that submit applications on a regular basis, in the increased competition for the money that is available. It may have a slightly positive impact on private for-profit operators who may have increased opportunity to provide service to grantees.

Preparation and Copies of Rule. Preparation of this rule was done by Fred Wisner, Assistant General Counsel of the Department's Office of General Counsel, and Beth Trautsch of the Department's Division of Transportation Assistance office. Copies of this rule may be obtained upon request, without cost, by writing to Beth Trautsch, Division of Transportation Assistance, Room 701, P. O. Box 7914, Madison, Wisconsin 53707-7914, or by calling (608) 266-0560. Hearing-impaired individuals may contact the Department using TTY (608) 266-3351. Alternate formats of the rule will be provided to individuals at their request.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 85.22 and 227.11(2), Stats., the department of transportation hereby amends a rule interpreting s. 85.22, Stats., relating to the elderly and disabled transportation assistance program for private nonprofit organizations.

SECTION 1. Chapter Trans 2(title) is amended to read:

CHAPTER TRANS 2

ELDERLY AND DISABLED TRANSPORTATION CAPITAL ASSISTANCE

PROGRAM FOR PRIVATE NONPROFIT ORGANIZATIONS

SECTION 2. 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~~ department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 16 program, and to prescribe administrative policies and procedures for implementing the

elderly and disabled transportation capital assistance program for ~~private nonprofit organizations~~ authorized under s. 85.22, Stats.

SECTION 3. Trans 2.015(2m) is created to read:

Trans 2.015(2m) "Eligible applicant" means any applicant that meets eligibility requirements for assistance under the federal sec. 16 program and is one of the following:

(a) A private, nonprofit organization.

(b) A local public body that satisfies one of the conditions in s. Trans 2.10(2).

NOTE: Federally recognized tribal governing bodies are also eligible applicants as local public bodies under par. (b) of this section, based on s. 20.002(13), Stats.

SECTION 4. Trans 2.015(3) and (4) are amended to read:

Trans 2.015(3) "Federal sec. 16(b)(2) 16 program" means the federal assistance program under 49 U.S.C. ~~s.~~ 1612(b)(2).

(4) "Grant equipment depreciation schedule" means a schedule prepared in accordance with applicable department directions showing straight-line depreciation for equipment purchased in part with capital assistance provided under s. 85.22, Stats., ~~and this chapter.~~

SECTION 5. Trans 2.015(5m) is created to read:

Trans 2.015(5m) "Local public body" has the meaning given in s. 85.20(1)(d), Stats., except as limited by this chapter.

SECTION 6. Trans 2.02(1) is amended to read:

Trans 2.02(1) ~~Private nonprofit organizations that are eligible for federal assistance under the federal 16(b)(2) program are eligible for state assistance under 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. An eligible applicant may apply for capital assistance under s. 85.22, Stats. All applicants must shall~~ comply with federal regulations governing the ~~16(b)(2) federal sec. 16~~ program. ~~At the time it applies to the 16(b)(2) program, an organization~~ In addition to being eligible for assistance under the federal sec. 16 program, an applicant shall, at the time it applies for capital assistance, 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 applicant~~ which is prohibited in this way from subcontracting shall be eligible to apply for capital assistance only if the contracts which prohibit it from subcontracting were publicly bid and open to all transportation providers.

SECTION 7. Trans 2.04(3) is amended to read:

Trans 2.04(3) Demonstrate how the proposed project will be integrated with specialized transportation services provided by public transit systems and previous ~~16(b)(2) federal sec. 16 program~~ grantees located within the applicant's service area; and,

SECTION 8. Trans 2.045(2)(a), (3) and (5) are amended to read:

Trans 2.045(2)(a) A description of the service required under its application for capital assistance;

(3) If an applicant has provided transportation service only during the current year and the immediately preceding year, the statement required under sub. (2)(b) shall cover only the current and the immediately preceding years. If an applicant has provided service only during the current year or has provided no service during the 3-year period identified in sub. (2)(b), the statement required under sub. (2)(b) shall consist of esti-

mates, with supporting explanations, of the total operating costs that will be incurred for and the total miles that will be traveled by the equipment for which the applicant seeks capital assistance in the first year of its use by the applicant.

(5) Any other transportation provider whose service proposal is rejected by an applicant may request review of that rejection by the department. The department shall use a fully allocated cost method in resolving differences between an applicant and another transportation provider. If after a requested review the department concludes that an applicant should not have rejected another transportation provider's proposal, the department shall deny that applicant's application for capital assistance under this chapter.

SECTION 9. Trans 2.05(1)(intro.), (d) and (g) are amended to read:

Trans 2.05(1) Each application for capital assistance under this chapter shall be considered valid only during the annual program cycle in which it is submitted. Except as provided in s. Trans 2.06(3), an applicant for capital assistance shall prepare an application within 120 days prior to the application deadline according to the following schedule:

(d) Not less than 60 days before the application deadline, the applicant shall mail a notice of its intention to request capital assistance under this chapter to all other transportation providers operating within applicant's proposed service area and to the chairperson of the county board for any county in which the applicant proposes to operate;

(g) Not less than 20 days before the application deadline, another transportation provider may submit to the applicant an appropriate written proposal for the applicant to consider under s. Trans ~~2.045(3)~~ 2.045(4).

SECTION 10. Trans 2.06(2)(d) and (3) are 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 ~~46(b)(2)~~ federal sec. 16 program capital assistance grants may be considered (0-45 points).

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

SECTION 11. Trans 2.09 is amended to read:

Trans 2.09 VEHICLE REGISTRATION. A grantee under the federal ~~46(b)(2)~~ sec. 16 program shall at all times maintain human service vehicle or school bus registration, as appropriate, on every vehicle purchased in part with aids under s. 85.22, Stats., and this chapter whether the vehicles are operated by the grantee or by other transportation providers. If a grantee fails to comply with this registration requirement, the department may reassign the vehicles not properly registered by the grantee to other ~~private, nonprofit transportation providers~~ eligible applicants specified in s. Trans 2.02(1) and may reject pending or future applications of the grantee for aids under s. 85.22, Stats., and this chapter.

SECTION 12. Trans 2.10 is created to read:

Trans 2.10 LOCAL PUBLIC BODY APPLICANTS. (1) DEFINITION. In this

section, "transportation coordinating committee" means a committee appointed by the county board for coordinating the county's specialized transportation which:

(a) Has 10 or more members representing at least the following:

1. County board;
2. County aging unit;
3. County boards created under s. 51.42 or 51.437, Stats.;
4. Transportation providers--public, proprietary and nonprofit;
5. Elderly and disabled citizen advocates;
6. Consumer and agency advocates; and

(b) Has at least the following duties:

1. Monitor the expenditures of transportation funds being expended on transportation services for the elderly and disabled in service areas;

2. Review passenger transportation plans for service areas;

3. Review and comment on county aid applications under s. 85.21, Stats.;

4. Review and comment on capital assistance applications under s. 85.22, Stats.;

5. Act as an informational resource for local transportation providers regarding the requirements of the Americans with disabilities act of 1990, 42 U.S.C. 12101 et seq.;
and

6. Act on requests by local public bodies to be designated as coordinators of transportation services for elderly and disabled persons for the purpose of becoming eligible for assistance under the federal sec. 16 program.

(2) ELIGIBILITY. In order to apply for capital assistance under s. 85.22, Stats., a local public body shall satisfy one of the following conditions:

(a) Is determined by the department to be eligible for assistance under the federal sec. 16 program after first certifying to the department that no private, nonprofit organizations as specified in s. Trans. 2.015(2m) are readily available to provide transportation services to elderly and disabled persons in a proposed service area and providing all of the following or similar documentation supporting such certification:

1. Copies of letters sent to all known private, nonprofit organizations specified in s. Trans 2.015(2m), both within the county wherein such organizations are situated and in adjacent counties, soliciting interest in providing transportation services for elderly and disabled persons in the proposed service area, along with copies of any resulting correspondence.

2. A certified copy of a public notice published in the appropriate official county newspaper soliciting responses from private, nonprofit organizations as specified in s. Trans 2.015(2m), both within the county wherein such organizations are situated and in adjacent counties, interested in providing transportation services to elderly and disabled persons in the proposed service area, along with copies of any resulting correspondence.

(b) Is approved by the department to be the coordinator of transportation services to elderly and disabled persons in the proposed service area after first being so approved by a transportation coordinating committee and the county board and providing all of the following or similar documentation to the department verifying such approval:

1. Copies of documentation showing that a transportation coordinating committee approved the local public body as the coordinator of transportation services for elderly and disabled persons in the proposed service area.

2. A certified copy of the resolution, passed by the county board, approving the local public body as the coordinator of transportation services for elderly and disabled persons in the proposed service area.

(END OF RULE TEXT)

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

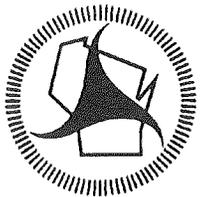
Signed at Madison, Wisconsin, this 1 day of November, 1994.



CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation



Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

OFFICE OF GENERAL COUNSEL
P. O. Box 7910
Madison, WI 53707-7910

November 1, 1994

Mr. Gary Poulson
Deputy Revisor of Statutes
131 West Wilson Street, Suite 800
Madison, Wisconsin 53703

RE: CLEARINGHOUSE RULE 94-133

In the Matter of the Adoption of **TRANS 2**, Wisconsin Administrative Code, relating to the **elderly and disabled transportation assistance program for private nonprofit organizations**.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 94-133**, an administrative rule relating to the above-mentioned matter. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosures

cc: Terry Mulcahy
Tom Walker
Dorothy Kapke
Jim McDonnell
John Evans
Ron Morse
Beth Trautsch

