

## Chapter DOD 6

## WISCONSIN DEVELOPMENT FUND

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Note: Chapter DOD 6 was repealed and recreated by emergency rule effective 5-18-83.

### Subchapter I — Annual Public Facilities Competition

**DOD 6.01 Purpose.** The purpose of subchapters I, II and III is to set forth the criteria the department will use in administering the federal funds in the Wisconsin development fund that the department receives pursuant to 42 USC 5301 to 5319 and 24 CFR 570.480 to 570.496.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; emerg. am. eff. 10-6-87; am. Register, March, 1983, No. 387, eff. 4-1-88; am. Register, January, 1994, No. 457.

**DOD 6.02 Eligibility.** Any city, village or town with a population of less than 50,000 that is not eligible to apply for or participate in the federal

block grant entitlement program and any county, other than an urban county as defined by the United States department of housing and urban development, may apply for federal funds under the Wisconsin development fund.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; emerg. am. eff. 10-6-87; am. Register, March, 1988, No. 387, eff. 4-1-88.

**DOD 6.03 Definitions. In subchs. I and II:**

(1) "Adjusted gross income per capita" means the average individual adjusted gross income as reported on the individual income tax return within an applicant local government and statewide for Wisconsin income tax purposes.

(2) "Application" means a request for funding for either economic development, public facilities economic development or public facility projects as provided in this chapter.

(3) "Department" means the department of development.

(4) "Economic development program" means the continuous receipt and review of applications for economic development projects as provided in subch. II of this chapter.

(5) "Full value per capita" means the estimated market value of all taxable property in the municipality divided by the number of persons residing in the municipality.

(6) "Metropolitan area" means any county which is within a standard metropolitan statistical area.

(7) "Net mill rate" means the total of all property taxes levied by the local government for all purposes less general property tax relief payments divided by the estimated market value of taxable property in the local government.

(8) "Non-metropolitan area" means any county not within a standard metropolitan statistical area.

(9) "Public facilities competition" means the receipt and review of applications for public facilities projects as provided in this subchapter.

(10) "Public facilities economic development program" means the continuous receipt and review of applications for public facilities projects that support economic development as provided in subch. II of this chapter.

(11) "Public facility system" means the land, right-of-ways, structures and equipment needed to meet a particular community need, such as water supply or storm drainage.

(12) "Residential utility rate" means the average annual household utility rate paid for water and sanitary sewer services determined by dividing the total gross annual residential water and sewer revenue collected for the preceding calendar year by the number of households served.

(13) "Service center" means an elderly center, center for the handicapped or similar facility which requires continued administrative funding to support the services provided by the facility.

(14) "Target area" means an area or areas within the municipality which contain a concentration of low- and moderate-income or minority households, and which include not more than 50% of the households of the municipality.

(15) "Urgent local need" means that the proposed public facility project is beyond the ability of the applicant to finance, as measured by available obligation debt capacity, residential utility rate and timely availability of funds from other sources, and is either necessary to address an imminent public health, safety or welfare problem or, is required by an order of a state agency, federal agency or court.

(16) "Wisconsin development fund grant" means a grant available to eligible applicants as provided in s. DOD 6.02 for the purpose of undertaking economic development projects, public facilities projects that support economic development and public facilities projects.

*History:* Cr. Register, February, 1982, No. 314, eff. 3-1-82; cr. (3a), am. (6), Register, November, 1983, No. 335, eff. 12-1-83; renum. (1) to be (1m) and am., cr. (1) and (1q), r. (3a) and (11), Register, November, 1984, No. 347, eff. 12-1-84; emerg. cr. (1) (intro.), (1f) and (11), r. (1m), (6) and (13), renum. (1q), (14) to (16) to be (2m) (16), (14) and (15) and am. (2m), (14) and (16), eff. 10-6-87; cr. (1) (intro.), (1f) and (11), am. (1), r. (1m), (6) and (13), renum. (1q), (14), (15) and (16) to be (2m), (16), (14) and (15) and am. (2m), (14) and (16), Register, March, 1988, No. 387, eff. 4-1-88; renum. (1), (1f) to (5) and (12) to be (9), (2) to (6) and (13) and am. (2) and (9), cr. (1), (12), r. (4) and (9), r. and recr. (10) and (15), and am. (7), (16), Register, January, 1994, No. 457, eff. 2-1-94.

**DOD 6.04 National objectives.** Each application and each project proposed in an application shall meet either of the following requirements:

(1) **BENEFIT TO LOW- AND MODERATE-INCOME PERSONS.** The percentage of requested funds to be used for the direct benefit of low- and moderate-income persons must meet at least the minimum requirements of 24 CFR 570.483 (b) (2).

(2) **URGENT LOCAL NEED.** For those applications which propose projects that have a local government-wide benefit and which are proposed in a local government that has a smaller percentage of low- and moderate-income persons than specified in the application manual prepared by the department, the projects must meet an urgent local need.

*History:* Cr. Register, February, 1982, No. 314, eff. 3-1-82; am. Register, November, 1984, No. 347, eff. 12-1-84; emerg. am. eff. 10-6-87; am. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr., Register, January, 1994, No. 457, eff. 2-1-94.

**DOD 6.05 Public facility scoring system.** The allocation of Wisconsin development fund grants distributed under the public facility competition shall be based upon the comparative ranking of applications. Comparative ranking is established by respective points awarded pursuant to ss. DOD 6.06 to 6.11. A local government may submit one application during each public facility competition. After reviewing the applications received during any public facilities competition, the department may establish a minimum score of 275 for funding.

*History:* Cr. Register, February, 1982, No. 314, eff. 3-1-82; r. and recr., Register, January, 1994, No. 457, eff. 2-1-94.

**DOD 6.06 Distress indicators.** Distress indicators have a total value of 100 points as follows:

(1) **NET MILL RATE.** Scores shall range from 25 for those applicants with the highest net mill rates to 0 for those applicants with the lowest net mill rates. The 10% of applicants with the lowest net mill rates shall

receive a score of 0. The remaining 90% of applicants will be sorted into 20 groups so that applicants in the group with the highest net mill rates receive 25 and applicants in each succeeding group receive a score 5% less than the score of the preceding group.

(2) **FULL VALUE PER CAPITA.** Scores shall range from 25 for those applicants with the lowest full values per capita to 0 for those applicants with the highest full values per capita. The 10% of applicants with the highest full value per capita shall receive a score of 0. The remaining 90% of applicants will be sorted into 20 groups so that applicants in the group with the lowest full value per capita receive 25 and applicants in each succeeding group receive a score 5% less than the score of the preceding group.

(3) **ADJUSTED GROSS INCOME PER CAPITA.** Scores shall range from 50 for those applicants with the lowest adjusted gross income per capita to 0 for those applicants with the highest adjusted gross income per capita. The 10% of applicants with the highest gross income per capita shall receive a score of 0. The remaining 90% of applicants will be sorted into 20 groups so that applicants in the group with the lowest adjusted gross income per capita receive 50 points and applicants in each succeeding group receive a score 5% less than the score of the preceding group.

**History:** Cr. Register, February, 1982, No. 314, eff. 3-1-82; am. (intro.), (1) (a), (2) (a) and (3) (a), Register, November, 1983, No. 335, eff. 12-1-83; am. (intro.) and (2) (c) 2., r. (1), Register, November, 1984, No. 347, eff. 12-1-84; emerg. am. (intro.), (2) (a) 1. to 4., (b) 2. and 3., (3) (a) 1. to 3., (b) 1. to 3., (c) 1. to 3., r. and recr. (2) (c) 1. to 3., eff. 10-6-87; am. (intro.), (2) (a) 1. to 4., (b) 2. and 3., (3) (a) 1. to 3., (b) 1. to 3., (c) 1. to 3., r. and recr. (2) (c) 1. to 3., Register, March, 1988, No. 387, eff. 4-1-88; r. and recr., Register, January, 1994, No. 457, eff. 2-1-94; emerg. am. (3), eff. 2-2-94; am. (3), Register, May, 1994, No. 461, eff. 6-1-94.

**DOD 6.07 Needs assessment.** Applicants shall receive 75, 50, 25 or 0 for describing and documenting the need for public facility projects as follows:

(1) An applicant shall receive 75 if it has identified, described and documented, by an outside agency, at the state level if possible, its public facility deficiencies, has proposed activities that will alleviate the problem and has shown that the activities are necessary to alleviate an urgent health and safety problem or are otherwise essential to the community.

(2) An applicant shall receive 50 if it has identified, described and documented the public facility deficiencies, has proposed activities that will alleviate the identified problems and has shown that the activities are necessary to alleviate an imminent health and safety problem or are otherwise essential to the community.

(3) An applicant shall receive 25 if it has identified, described and documented the public facility deficiencies and has proposed activities that will assist in alleviating the identified problem.

(4) An applicant which fails to meet the requirements of sub. (3) shall receive 0.

**History:** Cr. Register, February, 1982, No. 314, eff. 3-1-82; am. (intro.) and (1), Register, November, 1983, No. 335, eff. 12-1-83; emerg. am. (intro.) and (2), eff. 10-6-87; am. (intro.) and (2), Register, March, 1988, No. 387, eff. 4-1-88; r. and recr., Register, January, 1994, No. 457, eff. 2-1-94.

(1) Whether the project is in a targeted area based on the following indices.

1. The level of unemployment in the area.
2. The average household income in the area.
3. The percentage of households in the area receiving aid to families with dependent children under s. 49.19, Stats.
4. The rate of decline in the population in the area.
5. The reduction of property values in the area.
6. The number of workers in the area that have been permanently laid off by their employers or the existence of public notice by an employer of either a plant closing or a substantial reduction in work force that will result in a significant number of workers in the area being laid off permanently.
7. Designation of the area as a development zone under s. 560.71, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; cr. (2) (1), Register, January, 1992, No. 433, eff. 2-1-92.

**DOD 6.48 Contracts.** Successful applicants shall be required to enter into a contract with the department for the purpose of implementing the proposed grant or loan. The contracts shall be signed by the secretary of development and the chief executive officer of the business, or by their authorized representatives. The department may void a contract and seek a return of funds released under the contract for failure by the business to perform its obligations under the contract. Amendments to these contracts may be adopted by the consent of both of the original signatories. However, no change may be authorized if the jobs for which the training is provided are to be moved out of state or the job classification or the skill levels are to be downgraded. Any relocation from Wisconsin to any other state of the jobs for which the training is provided or any change in the job classifications or skill level involved shall void the contract and all funds paid to date shall be refunded to the department for use in support of other applications to the fund. These restrictions apply only to jobs described in the training application provided in s. DOD 6.46 and apply only for a term subject to negotiation between the successful applicant and the department.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

**DOD 6.49 Reporting and auditing.** Successful applicants will be required to provide the department periodic financial and program reports. A financial audit and final program report shall be submitted at the end of the contract. The cost of the audit may be covered by the grant or loan except as provided under s. DOD 6.44 (2) (d). The financial reports, audit and the program reports shall be submitted to the department as specified in the contract. The financial audit and the program reports become the property of the department and are open to public inspection.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

**DOD 6.50 Administration.** The department shall be responsible for soliciting applications for the fund, reviewing applications, making rec-

ommendations to the board on the disposition of applications, authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under the terms of this subchapter, monitoring the provision of the training, receiving and reviewing the financial reports and program reports submitted under s. DOD 6.49 and for collecting any repayments of grants and loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

**DOD 6.51 Board operations.** The board shall consider the recommendation of the department relating to the criteria under s. DOD 6.47. The board shall approve an application before the department can enter into a contract under the terms of the fund. The department shall maintain records of its proceedings and provide other staff support as may be necessary to the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1992, No. 433, eff. 2-1-92.

### Subchapter V — Technology Development

**DOD 6.60 Purpose.** The purpose of this subchapter is to establish the procedure for the administration of technology development grants and loans and technology development follow-up loans by the department, as provided by ss. 560.605 and 560.62, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and rec. Register, February, 1991, No. 422, eff. 3-1-91; r. and rec. Register, May, 1994, No. 461, eff. 6-1-94.

**DOD 6.61 Definitions.** In this subchapter:

(1) "Application" means a proposal from an eligible applicant as specified in s. DOD 6.62 (1) or (2) containing all applicable elements required in s. DOD 6.65.

(2) "Board" has the meaning provided in s. 560.60 (1s), Stats.

(3) "Business" has the meaning provided in s. 560.60 (2), Stats.

(4) "Consortium" has the meaning provided in s. 560.60 (3), Stats.

(5) "Department" means the department of development.

(6) "Financial audit" means an audit performed to the satisfaction of the department.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means any of the following:

(a) Financing has been declined for the project.

(b) The maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available from the Wisconsin development fund.

(8) "Fund" means the technology development fund.

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(9) "Higher educational institution" has the meaning provided in s. 560.60 (8), Stats.

(10) "Job" has the meaning provided in s. 560.60 (10), Stats.

(11) "Program report" means a report to the department describing the results of the project supported by a technology development grant or loan or technology development follow-up loan.

(12) "Project" has the meaning provided in s. 560.60 (14), Stats.

(13) "Royalty" means a share of future profits from, or an interest in, a product or process.

(14) "Targeted area" means an area identified under s. 560.605 (2) (f) and (2m), Stats.

(15) "Technology development follow-up loan" means a loan made under this subchapter as described in s. DOD 6.62 (2).

(16) "Technology development fund" means the total of all grant and loan funds awarded under s. 560.62, Stats., and this subchapter.

(17) "Technology development grant or loan" means a grant or loan made under this subchapter as described in s. DOD 6.62 (1).

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

**DOD 6.62 Eligible applicants.** (1) Any consortium with a proposed technical research project that is intended to result in the development of a new, or the improvement of, an existing industrial product or process may apply for a technology development grant or loan under this subchapter.

(2) Any business which, as part of a consortium, received funding under s. DOD 6.63 and which, with such funding, developed a new or improved an existing industrial product or process may apply for a technology development follow-up loan under this subchapter.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

**DOD 6.63 Grant and loan amounts.** (1) Wisconsin development funds expended or encumbered under this subchapter in any fiscal year for grant or loan projects located outside a targeted area may not exceed 40% of the total budgets of all grant and loan projects located outside a targeted area which are awarded grants or loans under this subchapter.

(2) A determination as to whether a technology development fund project shall be funded as a grant or loan shall be at the discretion of the board. Insofar as it is practical, the board shall require repayment of technology development fund loans and technology development follow-up loans plus a reasonable return on the investment. The repayment provision shall be determined on a case by case basis by the board.

(3) The proceeds of a technology development follow-up loan may be used only to pay those costs identified in s. 560.62 (1) (b) and (2m), Stats., and only in accordance with the terms of the contract required under s. DOD 6.67. The terms and conditions of each technology devel-

opment follow-up loan, including repayment terms, shall be determined on a case by case basis by the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. (1), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

**DOD 6.64 Match requirements.** (1) The consortium shall provide a match for the technology development grant or loan received. The match shall not be less than 25% of the value of the research project. The board may establish a higher match requirement to the extent that the financial documentation in the application indicates the ability on the part of the consortium to finance a greater share of the project.

(2) The business shall provide a match for the technology development follow-up loan received. The match shall not be less than 25% of the cost of the project. The board may require a higher match to the extent that the financial documentation in the application indicates the ability on the part of the business to finance a greater share of the project.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. (2), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

**DOD 6.65 Application content.** (1) Each technology development grant and loan application shall be in such form as the department may require and shall contain all of the following:

(a) The composition of the consortium including the location of the businesses and the higher educational institution and the extent of participation of each in the consortium.

(b) A written agreement specifying all of the following:

1. The ownership of any patents or licenses which result from the technical research.

2. Dissemination of information relating to the technical research.

3. The responsibilities of persons conducting the technical assistance.

(c) A timetable for completion of grant or loan supported activities.

(d) A description of the new product or process and of the research and development activities to be supported by the consortium and a budget for those activities.

(e) An estimate of the potential benefit to the economy of the state of Wisconsin in terms of new jobs, increased productivity, expansion into new markets inside or outside the state or the initiation of new enterprises within the state.

(f) An explanation of why Wisconsin development fund assistance is needed.

(g) A description of the proposed match to be provided by the business.

(h) A schedule for repayment of the funds.

(i) A pledge by the applicant business to maintain operations in the state after completion of activities supported by the grant or loan.

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(j) A summary of related research indicating the uniqueness of the proposed research and development activities.

(k) An explanation of how the proposed project addresses the standards under s. DOD 6.66.

(l) A plan for evaluating and reporting on the effectiveness of the activities supported by the award as measured by the production or introduction of a new process or of a saleable new product into the market and for reporting progress in completing activities described in the timetable.

(m) Documentation from a financial institution that financing is unavailable from any other source on reasonably equivalent terms.

(n) Other information the board may require to make a determination under this subchapter and s. 560.62, Stats.

(2) Each technology development follow-up loan application shall be in such form as the department may require and shall contain all of the following:

(a) An analysis of the need for funds for the production, marketing or sales of the new or improved product or process resulting from a technology development grant or loan project.

(b) A market analysis which shows demand for the product or process.

(c) Any other information the department may require to make a determination in accordance with the provisions of this subchapter and s. 560.62, Stats.

**History:** Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. February, 1994, No. 461, eff. 6-1-94.

**DOD 6.66 Evaluation criteria.** (1) The board shall determine that the project meets the requirements of ss. 560.605 (1) (a) to (h) and 560.62 Stats., before making a technology development grant or loan.

(2) The board shall consider the following before making a technology development grant or loan:

(a) Each of the items contained in s. 560.605 (2) (a) to (f), (4), (5) and (5m), Stats.

(b) The extent to which the business pledges to maintain operations in this state after completion of the technical research supported by grant or loan funds.

(c) The technical soundness of the proposed research.

(d) The degree to which technological developments likely to come from the proposed research will be used in and be of benefit to the economy of this state.

(e) The time frame for repayment of the grant or loan funds and the amount of any additional royalties.

(f) The likely economic benefits of the project compared with the public cost of the project.

(g) The extent to which the project is likely to contribute to the growth of existing Wisconsin businesses or is likely to spur the creation of new Wisconsin businesses.

(3) The board shall determine that the project meets the requirements of ss. 560.605 (1) (a) to (h) and 560.62, Stats. before making a technology development follow-up loan.

(4) The board shall consider the following before making a technology development follow-up loan:

(a) Each of the items contained in s. 560.605 (2) (a) to (f), (4), (5) and (5m), Stats.

(b) The market for the product or process.

(c) The competition in the market for the product or process.

(d) The potential commercial success of the product or process.

**History:** Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422; eff. 3-1-91; cr. (2) (n), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

**DOD 6.67 Contracts.** Each successful applicant shall enter into a contract with the department for the purpose of implementing the proposed grant or loan under this subchapter. Each contract shall be signed by the secretary of development and the chief executive officer of the eligible recipient, or by the authorized representative of the eligible recipient. The department may void a contract and seek a return of any funds released under the contract for failure by the grant or loan recipient to perform its obligations under the contract.

**History:** Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

**DOD 6.68 Reporting and auditing.** A successful applicant for a grant or loan under this subchapter shall provide the department periodic financial and program reports. A financial audit and final program report shall be submitted at the end of each contract. The cost of the audit may be covered by the grant or loan. The financial audit and the program reports become the property of the department and are open to public inspection.

**History:** Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, eff. 6-1-94.

**DOD 6.69 Administration.** The department is responsible for soliciting applications from eligible applicants; reviewing applications; making recommendations to the board on the disposition of applications; entering into contracts with successful applicants; authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under this subchapter; receiving the financial reports and program reports submitted under s. DOD 6.68 and for collecting any repayments of loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the technology development fund program.

**History:** Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

Register, May, 1994, No. 461

**DOD 6.70 Board operations.** The board shall consider the recommendation of the department relating to the criteria under s. DOD 6.66. The board shall approve an application before the department can enter into a contract for a grant or loan under this subchapter. The department shall maintain records of its proceedings and provide other staff support as may be necessary to the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94.

### Subchapter VI — Major Economic Development Fund

**DOD 6.80 Purpose.** The purpose of this subchapter is to establish a procedure for the administration of major economic development grants or loans by the department of development, as provided by s. 560.62, 560.63 or 560.66, Stats., that are funded under s. 20.143 (1) (d), Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

**DOD 6.81 Definitions.** The definitions in this section apply only in this subchapter.

(1) "Application" means a proposal from an eligible applicant as specified in s. DOD 6.82 containing all elements required in s. DOD 6.84.

(2) "Board" means the development finance board as defined in s. 15.155 (1), Stats.

(3) "Business" means a company located in this state, a company which has made a firm commitment to locate a facility in this state or a group of companies at least 80% of which are located in this state.

(4) "Consortium" means an association of a business and a higher educational institution or the Great Lakes composites consortium; which association is subject to an agreement complying with this chapter.

(5) "Department" means the department of development.

(6) "Financial audit" means an audit performed in accordance with the standards adopted by the American institute of certified public accountants on the revenues and expenditures made in association with a grant or loan under this fund.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means any of the following:

(a) Financing has been declined for the major economic development project.

(b) The maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available from the Wisconsin development fund.

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