

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Note: Chapter DOD 6 was repealed and recreated by emergency rule effective 5-18-83.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, 1988, No. 387, eff. 4-1-88; am. Register, January, 1994, No. 467.

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.

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(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), (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 Register, November, 1994, No. 467

(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.

DOD 6.08 Planning. Applicants shall receive 50, 25 or 0 for planning as follows:

(1) An applicant shall receive 50 if it has submitted a public facility system plan describing total system needs including the proposed improvement and the specific project plan detailing the work to be completed and the cost.

(2) An applicant shall receive 25 if it has submitted a specific project plan detailing the work to be completed and the cost.

(3) An applicant which does not meet the requirements of sub. (2) shall receive 0.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.09 Past effort. Applicants shall receive 25, 15 or 0 for past efforts to correct the identified deficiency as follows:

(1) An applicant shall receive 25 if it has described and documented past public facility construction activities that integrally relate to and support each proposed activity and that had a direct impact on alleviating the identified deficiency.

(2) An applicant shall receive 15 if it has described and documented past public facility maintenance or improvements that relate to the proposed activities including previous attempts to fund the activities.

(3) An applicant which does not meet the requirements of sub. (2) shall receive 0.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.10 Ability to pay. Applicants shall receive 25, 15 or 0 for the relative rank of their residential utility rates and 25, 15 or 0 for their relative ability to incur additional general obligation indebtedness as follows:

(1) **RESIDENTIAL UTILITY RATES.** (a) An applicant shall receive 25 if its residential utility rate is among the top third of applicants or if it is establishing the initial rate of a new public utility.

(b) An applicant shall receive 15 if its residential utility rate is among the middle third of applicants.

(c) An applicant which does not meet the requirements of pars. (a) or (b) shall receive 0.

(2) **GENERAL OBLIGATION DEBT.** (a) An applicant shall receive 25 if its general obligation debt per capita is among the top third and its available general obligation debt per capita is among the lower third of applicants.

(b) An applicant shall receive 15 if its general obligation debt per capita and its available general obligation debt per capita are among the middle third of applicants.

(c) An applicant which does not meet the requirements of pars. (a) or (b) shall receive 0.

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

DOD 6.105 Leveraging. Applicants shall receive up to 100 points for leveraging or matching Wisconsin development funds with other funds that will either expand results or permit more aspects of need to be addressed. To receive credit for leveraging, there must be evidence of prior commitment of the availability of funds within the program period. Points shall be allocated under this section as follows:

(1) Applicants that leverage one or more dollars of other funds for each dollar of Wisconsin development funds shall receive 100 points. Applicants that leverage less than one dollar for each dollar of Wisconsin development funds shall receive points equal to the whole number equivalent of the ratio of other dollars to Wisconsin development fund dollars carried to 2 decimal places.

(2) Those applicants which receive a score of 20 or more under sub. (1) with adjusted gross incomes per capita below the median adjusted gross income per capita for all eligible applicants shall receive points as provided in sub. (1) plus the whole number equivalent of the percentage differential between the adjusted gross income per capita of the applicant and the median adjusted gross income for all eligible applicants up to a maximum of 100.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.11 Comparison of communities. (1) **DISTRESS COMPARISON.** For the purpose of determining the scores for distress indicators, all eligible applicants with a popula-

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tion of 5,000 or more, other than counties, shall compete against each other. All eligible non-metropolitan area applicants with a population of less than 5,000 and all non-metropolitan area counties shall compete against each other to determine the scores for the distress indicators. All eligible metropolitan area applicants with a population of less than 5,000 and all metropolitan area counties shall compete against each other to determine the scores for the distress indicators.

(2) **OVERALL COMPARISON.** For the purpose of determining the overall ranking of applications, all applications shall be compared to and compete against each other.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; emerg. am. (2), eff. 10-6-87; am. (2), Register, March, 1988, No. 387, eff. 4-1-88.

DOD 6.115 Benefit to low- and moderate-income persons. **History:** Cr. Register, November, 1983, No. 335, eff. 12-1-83; emerg. r. and recr., eff. 10-6-87; r. and recr. Register, March, 1988, No. 387, eff. 4-1-88; r. Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.12 Distribution of funds. The maximum amount available to an applicant is \$750,000.

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

DOD 6.13 Application process. (1) MANUAL. The department shall annually prepare a manual that contains the Wisconsin development fund grant application procedures. The department may update the manual as needed. The manual shall be available to all eligible applicants not later than 2 months prior to the deadline for receipt of applications.

(2) **SUBMISSION OF APPLICATIONS.** Applications shall be submitted by the deadline and in accordance with the procedures and format contained in the manual.

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

DOD 6.135 Initial rehabilitation. **History:** Cr. Register, June, 1989, No. 402, eff. 7-1-89; r. Register, January, 1994, No. 457, eff. 2-1-94.

Subchapter II —

Economic Development Program and Public Facilities Economic Development Program

DOD 6.14 Applicability. Sections DOD 6.01, 6.02, 6.03 (2), (2), (3), (4), (6), (8) and (16) and the provisions of this subchapter except for s. DOD 6.16 (1f) apply to the economic development program. Sections DOD 6.01, 6.02, 6.03 (2), (3), (6), (8), (10) and (16) and the provisions of this subchapter except for ss. DOD 6.16 (7), and 6.18 (1) to (3), (4) (a), (c) and (d) and (5) apply to the public facilities economic development program.

History: Cr. 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; am. Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.15 Scoring system. The allocation of federal Wisconsin development fund monies distributed under the economic development program shall be based upon the rating of applications against the applicable minimum requirements contained in s. DOD 6.16. The allocation of revolving loan fund monies, which the state receives pursuant to 24 CFR 570.489 (e) (2) (i) and distributes under the public facilities economic development program, shall

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be based upon the rating of applications against the applicable minimum requirements contained in s. DOD 6.16.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84; am. Register, January, 1987, No. 373, eff. 2-1-87; emerg. am., eff. 10-6-87; am. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.16 Minimum requirements. All applicants for economic development program funds shall meet the minimum requirements in subs. (1) and (2) to (7). All applicants for public facilities economic development program funds shall meet the minimum requirements in subs. (1) to (6).

(1) **COMMUNITY DEVELOPMENT PLAN.** An applicant must have a community development plan, as described in the housing and community development act of 1974, 42 USC 5306 (d) (2) (D).

(1f) **CITIZEN PARTICIPATION PLAN.** An applicant for public facilities economic development program funds must have a citizen participation plan as described in 24 CFR 570.486 (a).

(2) **LOW- AND MODERATE-INCOME BENEFIT.** The percentage of all jobs created and retained by a project that are available to low- and moderate-income people shall exceed the percentage specified in the application manual prepared by the department.

(3) **PRIVATE FUNDS LEVERAGED.** An applicant for economic development program funds or public facilities economic development program funds shall leverage a minimum of one dollar of private funds for each dollar requested. An applicant for economic development program funds shall also leverage one dollar of private funds for each dollar requested for the working capital portion of a the project. An applicant for public facilities economic development program funds must contribute a cash match out of its own funds at least equal to 25% of the total project cost.

(4) **COST PER JOB CREATED OR RETAINED.** The amount requested by an applicant for economic development program funds for each job that is created or retained shall not exceed \$20,000. The amount requested by an applicant for public facilities economic development program funds for each job that is created or retained shall not exceed \$10,000.

(5) **DEMONSTRATION OF NEED.** To demonstrate need, an application for economic development program funds shall show evidence that the project on behalf of which the grant is requested is unable to obtain full financing from any other source on reasonably equivalent terms and that it requires the proposed assistance to enable it to be competitive within the industry to which it belongs. To demonstrate need an application for public facilities economic development program funds shall show evidence that the project on behalf of which the funds are requested are not fundable from any other source.

(6) **FINANCIAL FEASIBILITY AND BUSINESS VIABILITY.** Applicants for economic development program funds shall demonstrate that the business that will receive funds is viable and has the economic ability to repay the funds. Applicants for public facilities economic development program funds shall demonstrate that the business that will

benefit from the funds is viable and has the ability to create and retain jobs.

(7) **EQUITY INVESTMENT.** The department may require a minimum equity investment for a project.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84; am. (4) (intro.), (5) (intro.), (6) (intro.), (7) (intro.) and (8) (intro.), Register, January 1987, No. 373, eff. 2-1-87; emerg. r. and recr. eff. 10-6-87; r. and recr. Register, March, 1988, No. 387, eff. 4-1-88; cr. (1), am. (intro.), (3) to (6), (4) (b), (c), (d), Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.17 Application manual. The department shall prepare application manuals which it may update as needed. The application manuals will contain the application procedures, requirements and instructions for funding under the economic development program and the public facilities economic development program.

History: Cr. 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; am. Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.18 Distribution of funds. (1) Out of each annual allotment of federal Wisconsin development funds administered by the department, the department may set aside up to 75% for the economic development program or up to 75% for the public facilities competition. The department shall announce the amount of the set aside no later than August 1 of the preceding year. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program. Funds in the department's revolving loan fund, consisting of repayments from prior economic development program awards shall be used for public facilities economic development or public facilities program awards.

(2) The maximum amount available to any business under the economic development program is \$750,000. The maximum amount available under the economic development program to any local government, including any amount loaned to a business, is \$1.5 million per calendar year. The maximum amount available to assist any business under the public facilities economic development program is \$750,000. The maximum amount available to any local government under the public facilities economic development program is \$1.5 million per calendar year.

(3) Each recipient of economic development program funds may retain a cumulative amount of program income from all grants awarded after January 1, 1987 subject to subs. (4) and (5) for the purpose of establishing an economic development revolving loan fund. The recipient of funds must comply with the requirements established by the federal government under 24 CFR 570.489 (f) and the procedures established by the department.

(4) (a) Retained cumulative program income from grants awarded after January 1, 1987 may not exceed:

1. \$100,000 for an applicant with a population of 1,000 or less

2. \$150,000 for an applicant with a population of more than 1,000 but less than 2,000

3. \$250,000 for an applicant with a population of 2,000 or more but less than 4,000

4. \$500,000 for an applicant with a population of 4,000 or more but less than 10,000

5. \$750,000 for an applicant with a population of 10,000 or more

(b) All program income from grants in excess of these amounts shall be returned to the state to fund eligible public facilities economic development and public facilities activities, except that the department may waive this requirement to the extent such income is applied to continue the activities from which the income was derived.

(c) A recipient of economic development program funds which will generate program income in excess of the amounts allowed in this section from grants awarded prior to January 1, 1987 is not eligible to retain program income from grants awarded after January 1, 1987, except as provided in par. (b).

(d) All program income from grants awarded prior to January 1, 1987 shall be retained by the recipient in accordance with 24 CFR 570.489 (e) (2) and (f) and the original contract provisions. The department may require the recipient to return any program income from grants awarded prior to January 1, 1987 if funds are not being spent in accordance with federal program regulations and contractual provisions or if program recordkeeping and reporting procedures are not being met.

(5) Any municipality establishing an economic development revolving loan fund pursuant to this subchapter shall report annually to the department on the use of such a fund on forms and at such times as prescribed by the department.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84; am. (1) and (3), cr. (4) to (6), Register, January, 1987, No. 373, eff. 2-1-87; emerg. am. (1), r. (2), renum. (3) to (6) to be (2) to (5) and am. (2), (3), (4) (a) 3., 4., 5. and (c), eff. 10-6-87; am. (1), r. (2), renum. (3) to (6) to be (2) to (5) and am. (2), (3), (4) (a) 3. to 5. and (c), Register, March, 1988, No. 387, eff. 4-1-88; am. (1), (2), (3), (4) (b), (c), (d), Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.20 Distribution of funds. (1) Applications for economic development and public facilities economic development program funds will be reviewed on a continual basis. However, if the department has applications for either program for funds in excess of the amount available, the department shall determine which applications that have met the applicable minimum requirements contained in s.DOD 6.16 will receive priority based on distress indicators, percent of jobs created or retained for low- and moderate-income persons, cost per job and past performance.

History: Emerg. cr. eff. 10-6-87; cr. Register, March, 1988, No. 387, eff. 4-1-88; am. (1), r. (2), Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.21 Business relocation. Funds shall not be provided for projects that involve the relocation of a business or industry from one municipality to another municipality within the state, if the relocation results in the displacement of workers. This restriction may be waived by the secretary of the department if it is determined to be in the best interest of the state.

History: Emerg. cr. eff. 10-6-87; cr. Register, March, 1988, No. 387, eff. 4-1-88.

DOD 6.22 Type of assistance. The assistance provided to the business shall require the payment of principal and interest or the equivalent.

History: Emerg. cr. eff. 10-6-87; cr. Register, March, 1988, No. 387, eff. 4-1-88.

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DOD 6.23 Unfair competition. Funds shall not be awarded for projects that will provide a business with an unreasonable competitive advantage over other Wisconsin businesses in the same industry. Providing assistance at market rates or at rates that will enable the business to perform at industry averages shall not be considered as providing an unreasonable competitive advantage.

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

DOD 6.24 Employment commitments. Employers shall document job creation and job retention with a list of jobs or positions that specifies job titles, the number of full-time equivalent positions to be filled or retained under each title, job skills and wages or salaries.

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

Subchapter III — Emergency Grants

DOD 6.30 Purpose. (1) The purpose of this subchapter is to set forth the criteria the department will use to determine how federal Wisconsin development funds will be distributed to provide emergency assistance to local governments which have experienced natural disasters or other catastrophic events that threaten the public health or safety of the community and lead to an urgent need for major infrastructure repairs or replacement.

(2) Sections DOD 6.01, 6.02 and 6.03 (4) and (16) and the provisions of this subchapter apply to the emergency grants program.

History: Cr. Register, April, 1985, No. 352, eff. 5-1-85; emerg. renum. from DOD 6.20, eff. 10-6-87; renum. from DOD 6.20, Register, March, 1988, No. 387, eff. 4-1-88; am. cr. (2), Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.31 Eligibility. In addition to meeting the provisions of s. DOD 6.02, to be eligible for funding under this subchapter a community must meet the requirements contained in subs. (1) through (3).

(1) The local government must have suffered a natural disaster or other catastrophic event.

(2) The community must have sustained damage which is beyond the financial capability of the local government to repair.

(3) The community must provide a match equal to one-third of the block grant funds requested.

History: Cr. Register, April, 1985, No. 352, eff. 5-1-85; emerg. renum. from DOD 6.21, eff. 10-6-87; renum. from DOD 6.21, Register, March, 1988, No. 387, eff. 4-1-88; am. (1), Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.32 Funding. (1) The activities which are eligible for funding under this subchapter are the same as those which were eligible under the public facilities competition except that they must in addition be related to recovery from the emergency, must be for items which are not covered by insurance or other funding sources and must be unable to await funding available through the next public facilities competition.

(2) Grants may be for up to \$500,000.

(3) In situations where the catastrophic event was caused by human activity, such as a spill of hazardous material, and funds to repair the damage are recovered

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from a responsible party, then the department shall be reimbursed for its proportionate share of the repair.

History: Cr. Register, April, 1985, No. 352, eff. 5-1-85; emerg. renum. from DOD 6.22, eff. 10-6-87; renum. from DOD 6.22, Register, March, 1988, No. 387, eff. 4-1-88; emerg. am. (2), eff. 9-27-93; am. (1), cr. (3), Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.33 Grant application. (1) A local government interested in applying for an emergency grant must provide the department with a written request dated not more than 90 days after the later of the issuance of the state or federal disaster declaration applicable to the local government, the occurrence of or the discovery of the catastrophic event, which includes:

- (a) A description of the damage,
- (b) Documentation of a state or federal disaster declaration or a description of the catastrophic event,
- (c) A description of the activities the emergency grant will fund,
- (d) A budget,
- (e) Evidence of the one-third financial match to the emergency grant funds requested,
- (f) A discussion of alternative remedies, and
- (g) Evidence that the applicant can assume or identify other means to pay project costs in excess of \$666,666.

History: Cr. Register, April, 1985, No. 352, eff. 5-1-85; emerg. renum. from DOD 6.23, eff. 10-6-87; renum. from DOD 6.23, Register, March, 1988, No. 387, eff. 4-1-88; emerg. am. (1) (intro) and (e), eff. 9-27-93; am. (1), Register, January, 1994, No. 457, eff. 2-1-94.

DOD 6.34 Allocation. Each calendar year, up to \$1,000,000 of federal Wisconsin development funds may be expended by the department for emergency grants. The department may exceed this level of expenditure if it receives additional qualified applications.

History: Cr. Register, April, 1985, No. 352, eff. 5-1-85; emerg. renum. from DOD 6.24, eff. 10-6-87; renum. from DOD 6.24, Register, March, 1988, No. 387, eff. 4-1-88; emerg. am. eff. 9-27-93; am. Register, January, 1994, No. 457, eff. 2-1-94.

Subchapter IV — Customized Labor Training Fund

DOD 6.40 Purpose. The purpose of this subchapter is to establish the procedure for the administration of labor training fund grants or loans by the department of development, as provided by s. 560.63, Stats.

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

DOD 6.405 Policy and plan. (1) **APPLICABILITY.** The provisions of this section apply to this subchapter, subchs. V and VII and those provisions of ch. DOD 23 which relate to the recycling loan program.

(2) **POLICY STATEMENT.** As the state economic development agency, the department shall administer and coordinate economic and business development programs to foster investment, job creation, and diversification of the state's economy. The department shall provide financial and technical assistance to businesses for economic development, labor training, recycling, and technology related projects. The department shall place special emphasis on the financing needs of small businesses, women and mi-

nority owned businesses, and firms located in targeted areas of the state. Through the use of the Wisconsin development fund, the department shall seek to maximize the use of limited funds by leveraging private investment and utilizing other sources of available funds.

(3) **BIENNIAL PLAN.** The department shall develop and submit funding goals to the board for awarding grants and loans that allocate available funds for economic development, labor training, recycling and technology related projects for each fiscal biennium. The board shall consider the recommendations of the department based upon grant and loan criteria as provided in s. 560.605, Stats., and the goals established by other state administered financial assistance programs. Following board approval and before the commencement of each odd-numbered fiscal year the department shall submit the goals to the governor and chief clerk of each house.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93.

DOD 6.41 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 6.42 containing all elements required in s. DOD 6.46.

(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) "Department" means the department of development.

(5) "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.

(6) "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.

(7) "Fund" means the labor training fund.

(8) "Job" means a position providing full-time equivalent employment for one individual for one year, beginning after a project is completed. It does not include initial training before an employment position begins.

(9) "Occupational classification" means a type of job for which the department of industry, labor and human relations has certain descriptive specifications and maintains vacancy rate information on a substate regional basis which may be obtained from a local Wisconsin job service office.

(10) "Program report" means a report to the department describing progress made toward achieving goals specified under s. DOD 6.46.

(11) "Training" means to teach or to demonstrate skills necessary for successfully performing a task associated with a product, process or service of a business.

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

DOD 6.42 Eligible applicants. Any business that has made a firm commitment to locate in Wisconsin, a business that is expanding within Wisconsin, or a business that is upgrading a product, process or service that requires training in new technology and industrial skills for its employees may apply for a grant or loan under this subchapter.

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

DOD 6.43 Eligible providers. Applicant businesses may provide the training funded under the program utilizing their own resources, another business, a consultant or contractor, a local vocational, technical and adult education school, or a public or private secondary or post-secondary school.

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

DOD 6.44 Grant and loan amounts and restrictions. (1) The amount of funding for a project and a determination as to whether the project will be funded as a grant or loan will be at the discretion of the board. Insofar as it is practical, the board will require repayment of the funds plus a reasonable return on the investment. The repayment provisions shall be determined on a case-by-case basis by the board.

(2) As provided by s. 560.63 (3), Stats., funds shall not be available for any of the following costs incurred by a vocational, technical and adult education district or by a public secondary or post-secondary institution:

(a) The cost, incurred before the beginning of the labor training program, of recruiting program instructors.

(b) The cost of developing a labor training program curriculum.

(c) The cost of recruiting, screening and counseling program trainees.

(d) The cost of a financial audit.

(e) The cost of renting instructional equipment and training facilities owned or leased by the district or institution, unless the equipment or facilities are rented only for the labor training program.

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

DOD 6.45 Match requirements. The applicant shall provide a match for the grant or loan received. The match shall be in cash and shall not be less than 50 percent of the value of the training provided if the project for which funding is requested is located outside a targeted area. Up to 20 percent of the contribution of a participating business may consist of funds which the business receives under the federal job training partnership act, 29 USC 1501 to 1781.

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

DOD 6.46

DOD 6.46 Application content. Applications from eligible businesses shall be submitted to the department. Each application shall contain all of the following:

(1) A description of a training program which details the kind of specialized training to be provided, the number of trainees, the name and qualifications of the proposed provider, the equipment and the facilities needed, and the location and duration of the proposed training.

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

(3) A statement, including supporting documentation, that the applicant is financially sound.

(4) An itemized estimate of the proposed cost of the training and a description of the proposed cash or in kind match.

(5) A statement guaranteeing a job in the state of Wisconsin for those successfully completing the training program supported by the proposed grant or loan.

(6) An explanation of how the proposed training project addresses the standards established in s. DOD 6.47.

(7) A statement that the proposed training is not available to the applicant through the applicant's existing training programs and that the training will not supplant training provided by any other federal, state or local public or private program.

(8) A plan for conducting a financial audit of the grant and for submitting program reports to the department on the results of the training.

(9) A statement that job orders for new hires will be placed with the Wisconsin job service, and that, to the extent possible, new hires will be recruited through the job service.

(10) A statement regarding the repayment of the grant or loan including proposed terms.

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

(12) Employers shall document job creation and job retention with a list of jobs or positions that specifies job titles, the number of full-time equivalent positions to be filled or retained under each title, job skills and wages or salaries both before and after the proposed training.

(13) Other information as may be required by the board.

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

DOD 6.47 Evaluation criteria. (1) The board shall determine the following before funding a project:

(a) That the project serves a public purpose.

(b) That the project will retain or increase employment in this state.

(c) That the project is not likely to occur in this state without the grant or loan.

(d) That financing is unavailable from any other source on reasonably equivalent terms.

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(e) That funds from the grant or loan under this subchapter will not be used to pay overhead costs or to replace funds from any other source.

(f) That the project will not displace any workers in this state.

(2) The board shall consider the following before funding a project:

(a) The extent to which the project will contribute to the economic growth of this state and the well-being of the residents of this state.

(b) Whether the project will be located in an area of high unemployment or low average income.

(c) The financial soundness of the business.

(d) The intention of the eligible recipient to repay the grant or loan.

(e) The ratio of state dollars requested to the number of jobs created or retained by the project.

(f) The ratio of the annual wages resulting from the project to the state dollars requested.

(g) The ratio of capital investment to the state dollars requested.

(h) The ratio of the state dollars requested to the private dollars committed to the project.

(i) The extent to which the business exports goods or services outside state borders.

(j) The likely economic benefits of the project compared with the public costs of the project.

(k) 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 business.

(l) 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) (l), 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 recommendations 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 technol-

ogy 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 recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. 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.

(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.

DOD 6.61

(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 development 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. 483, 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

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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. 483, 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.

(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 semi-annually 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.

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.

DOD 6.81

(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.

(8) "Governing body" means a county board, city council, village board, town board, regional planning commission or transit commission under s. 59.967 or 66.943, Stats.

(9) "Higher educational institution" means any of the following:

(a) The university of Wisconsin system.

(b) An institution which is located in this state and offers a post-baccalaureate or professional degree program.

(10) "Job" means a position providing full-time equivalent employment for one individual for one year, beginning after a project is completed. It does not include initial training before an employment position begins.

(11) "Local infrastructure" means the real property, buildings and improvements owned, constructed, managed, or operated by a political subdivision.

(12) "Major economic development project" means a project to which any of the following applies:

(a) The program [project] is necessary to retain a significant number of jobs in a political subdivision.

(b) The project is necessary to significantly increase the number of jobs in a political subdivision.

(c) The project will lead to significant capital investment in this state by a business.

(d) The project will make a significant contribution to the economy of this state.

(13) "Political subdivision" means a county, city, town or village.

(14) "Project" means a business development that increases the productivity of a business or its employees in this state, leads to significant capital investment in a business in this state, leads to the retention of existing jobs in this state or creates new jobs in this state.

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

DOD 6.82 Eligible applicants. Any business, consortium, nonprofit business development organization as defined in s. 560.60 (12), Stats. or governing body that is not eligible for a grant or loan under subchs. IV and V may apply for a grant or loan under this subchapter.

Note: Written instruction for technology development, technology-based incubator and applied research in technology grant and loan applications may be obtained at no charge from the Department of Development, Bureau of Development Finance, P.O. box 7970, Madison, Wisconsin 53707.

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

DOD 6.83 Match requirements. Applicants shall provide a match for the grant or loan received. The match shall be in cash and shall be a minimum of 25% of the projected cost. The board may establish a higher match requirement. A determination as to whether the project will be funded as a grant or loan will be at the discretion of the board. Insofar as it is practical, the board will require repayment of the funds plus a reasonable return on the investment. The repayment provisions shall be determined on a case-by-case basis by the board.

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

DOD 6.84 Application content. Applications from eligible applicants shall be submitted to the department. Each application shall contain all of the following:

(1) The name, address and designated contact person of the eligible applicant.

(2) A description of the proposed project, including all of the following:

(a) The location and duration of the project.

(b) The number of jobs to be created or retained.

(c) The value of the capital investment which the eligible applicant will make in the project.

(d) The value of the expenditures required for local infrastructure relating to the project.

(e) The immediate and continuing effects of the project upon the political subdivisions within which it will be located.

(3) A statement, including supporting documentation, that the applicant is financially sound.

(4) An itemized estimate of the proposed cost of the project and a description of the proposed match.

(5) An explanation of how the proposed project addresses the standards established in s. DOD 6.85.

(6) An explanation of why Wisconsin development fund assistance is required.

(7) Statements that funding is not available at reasonably equivalent terms from any other source, that any state funds received under this subchapter will not replace funds from any other source, and that the project is not likely to take place without the grant or loan.

(8) A statement that the proposed project will not displace any workers in Wisconsin.

(9) A plan for conducting a financial audit of the grant or loan and for submitting program reports to the department on the results of the project.

(10) A statement that job orders for new hires will be placed with the Wisconsin job service, and that, to the extent possible, new hires will be recruited through the job service.

(11) A statement regarding the repayment of the grant or loan including proposed terms.

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

(13) Employers shall document job creation and job retention with a list of jobs or positions that specifies job titles, the number of full-time equivalent positions to be filled or retained under each title, job skills and wages or salaries.

(14) For applicants requesting \$1 million or more of funds, the following additional information shall be supplied.

(a) An explanation as to how this project fosters the short-term and long-term economic growth of this state.

(b) An explanation of each of the other alternatives the applicant has explored for financing the project.

(c) A discussion of possible risks associated with the project and a comparison of those risks with the benefits to the state for providing the assistance.

(d) A discussion of any residual benefits to the state if the specified project benefits are not attained.

(e) An explanation of any undesirable effects the project may have on the environment, land use policies, public and private utility services and adjacent residential, commercial or industrial areas.

(f) A detailed explanation of all the assumptions used in arriving at the information provided under s. DOD 6.84.

(15) Other information as may be required by the board.

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

DOD 6.85 Evaluation criteria. (1) The board shall determine the following before funding a project:

(a) That the project serves a public purpose.

(b) That the project will retain or increase employment in this state.

(c) That the project is not likely to occur in this state without the grant or loan.

(d) That financing is unavailable from any other source on reasonably equivalent terms.

(e) That funds from the grant or loan under this subchapter will not be used to pay overhead costs or to replace funds from any other source.

(f) That the project will not displace any workers in this state.

(2) The board shall consider the following before funding a project:

(a) The extent to which the project will contribute to the economic growth of this state and the well-being of the residents of this state.

(b) Whether the project will be located in an area of high unemployment or low average income.

(c) The financial soundness of the applicant.

(d) The intention of the eligible recipient to repay the grant or loan.

(e) The ratio of state dollars requested to the number of jobs created or retained by the project.

(f) The ratio of the annual wages resulting from the project to the state dollars requested.

(g) The ratio of capital investment to the state dollars requested.

(h) The ratio of the state dollars requested to the private dollars committed to the project.

(i) The extent to which the business exports goods or services outside state borders.

(j) The unemployment and poverty rates of the political subdivision in which the project is located, if available.

(k) The likely economic benefits of the project compared with the public costs of the project.

(l) 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 business.

(m) The value of the expenditures required for local infrastructure relating to the major economic development project.

(n) The immediate and continuing effects of the major economic development project upon the affected political subdivisions within which it will be located.

(o) 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

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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.

(3) In awarding grants and loans under this section, the board may consider the effects of the project upon jobs, school, transportation, and law enforcement services and facilities.

(4) On projects where the applicant is requesting \$1 million or more of funds, the board shall also consider the information provided under s. DOD 6.84 (14).

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

DOD 6.86 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 successful applicant, or by their authorized representatives. The department may void a contract and seek a return of any 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. Any relocation from Wisconsin to any other state of the jobs created or retained through the project 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 Wisconsin development fund. These restrictions apply only to jobs described in the project application provided in s. DOD 6.84, 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 6.87 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. The financial reports, audit and the program reports shall be submitted to the department by a date 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 6.88 Administration. The department shall be responsible for soliciting applications, reviewing applications, making recommendations 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 project activities, receiving and reviewing the financial reports and program reports submitted under s. DOD 6.87, 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.
Register, November, 1994, No. 467

DOD 6.89 Board operations. The board shall consider the recommendations of the department relating to the criteria under s. DOD 6.85. The board shall approve an application before the department can enter into a contract under s. DOD 6.86. The department shall maintain records of the board's 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 VII —**Small Business Innovation Research
Bridge Financing**

DOD 6.90 Purpose. The purpose of this subchapter is to establish the procedure for the administration of a small business innovation research bridge financing program by the department of development, under the provisions of s. 560.625, Stats., which authorizes the department to award research grants and loans to small businesses.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.91 Definitions. In this subchapter:

(1) "Application" means a proposal from an eligible applicant as specified in s. DOD 6.92 containing all elements required by s. DOD 6.96.

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

(3) "Bridge award" means an award made by the department of development to a small business which has submitted a proposal for a Phase II award under the federal small business innovation research program.

(4) "Business" means a company operating for profit, which is either incorporated in Wisconsin or has Wisconsin as the principal place of business, and which has 250 or fewer employees, including employees of any subsidiary or affiliated organization.

(5) "Consumable item" means any item used and consumed as part of the scope of work available which no longer exists or which has no useful value at the end of the work effort and for which an invoice is available.

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

(7) "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 made under this subchapter.

(8) "Overhead" means any expense incurred for the normal conduct of business, but which, for practical reasons, is not allocated to a specific task.

(9) "Phase I award" means an award made by a federal agency to a small business to conduct a feasibility study under the federal small business innovation research program.

(10) "Phase II award" means an award made by a federal agency to a small business to further develop the results of Phase I research under the federal small business innovation research program.

(11) "Program report" means a report to the department describing progress made toward achieving goals specified under s. DOD 6.96.

(12) "Small business innovation research program" means the federal program, enacted pursuant to 15 USC 638, which provides funds to small businesses to conduct innovative research having commercial application.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.92 Eligible applicants. A business shall be eligible for a bridge award if it is a recipient of a Phase I award, has completed its Phase I research, has submitted a proposal for a Phase II award, intends to perform the research work primarily in Wisconsin and meets the applicable grant and loan eligibility criteria set forth in s. 560.605 Stats.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.93 Award amounts. The bridge awards may not exceed \$40,000 nor cover more than 12 months of work effort. The board may consider the following factors in determining the actual award amount:

(1) Whether the business is applying for more than one bridge award and whether the business is currently receiving bridge financing

(2) The financial need of the business for the bridge award.

(3) The potential commercial application and economic benefits to Wisconsin of the research results.

(4) The follow-on funding commitment for further development of the commercial potential after Phase II.

(5) The participation in the research work by a Wisconsin institution of higher education.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.94 Repayment of bridge awards. The bridge award, plus a reasonable return on the investment as determined by the board, shall be repaid to the Wisconsin development fund upon commercialization of the research conducted under the small business innovation research program.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.95 Match requirements. The business shall provide a match equal to 25% of the bridge award received. The match shall be in cash or in kind.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.96 Application contents. Applications submitted to the department shall contain all of the following:

(1) A copy of the final Phase I report, after it has been submitted to the federal agency.

(2) A copy of the Phase II proposal, after it has been submitted to the federal agency.

(3) A brief scope of work, including a timetable, covering the research activities to be performed with the bridge award. This work shall be related to the small business innovation research program and may include, but is not limited to, research into new applications of the technology developed under Phase I and research which repre-

sents an extension of the Phase I work but which is distinct and nonduplicative of the proposed Phase II work.

(4) A project budget, including a description of the proposed match to be provided by the business.

(5) Evidence that the project meets the criteria set forth in s. 560.605, Stats.

(6) A statement that the business intends to perform the research work primarily in Wisconsin.

(7) Other information as may be required by the department.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.97 Eligible and ineligible expenditures. (1) The following expenditures are eligible for funding:

(a) Salaries of research personnel who will be engaged in the research activity supported by the bridge award and in the Phase II research project.

(b) Other expenditures which are directly related to the research activity supported by the bridge award and which are segregated from other research activities. These expenditures may include, but are not limited to, consumable items and the use of equipment.

(2) Travel and overhead are not eligible for funding.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.98 Reporting. (1) The business shall submit quarterly reports to the department which include a brief description of accomplishments over the previous three-month period, and a project financial report covering the previous three-month period.

(2) The business shall submit a final report to the department which includes the following:

(a) A discussion of research methodology, successful and unsuccessful technical approaches, accomplishments achieved and research conclusions.

(b) A one paragraph abstract of the project and its results, suitable for publication.

(c) A project financial report and a financial audit of the bridge award.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.

DOD 6.99 Administration. (1) The application, and accompanying reports, shall be reviewed to determine:

(a) Whether the Phase I final report and Phase II proposal were properly submitted to the federal agency.

(b) Whether the conclusions of the Phase I final report support the continuation of the research effort.

(c) Whether the proposed state funded research is directly related to the small business innovation research program. The proposed state funded research shall be considered to be related if it includes either research into new applications of the technology developed under Phase I or research which represents an extension of the Phase I work but which is distinct and non-duplicative of the proposed Phase II work.

(d) Whether the project meets the criteria set forth in s. 560.605, Stats.

(e) Whether the business intends to perform the research work primarily in Wisconsin.

(2) Successful applicants shall be required to enter into a contract with the department for the purpose of implementing the proposed bridge award. The contract shall be signed by the secretary of development and the chief executive officer of the eligible recipient, or by their authorized representatives.

(3) The bridge award shall terminate when any of the following occur:

(a) The maximum bridge award amount awarded under the contract has been expended.

(b) The time limit for bridge award support under the contract has been reached.

(c) The end of the business week in which the effective date of the Phase II grant or contract occurs.

(d) The end of the business week in which the business is notified of the denial of the Phase II award.

(e) The department determines that the work performed or to be performed with the bridge award is inconsistent with the application.

History: Cr. Register, June, 1989, No. 402, eff. 7-1-89.