

Chapter Comm 115

COMMUNITY-BASED ECONOMIC DEVELOPMENT PROGRAM

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Note: Chapter DOD 15 was renumbered chapter Comm 115 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498.

Comm 115.01 Purpose. The purpose of this chapter is to establish a procedure for the administration of community-based economic development grants by the department as provided by s. 560.14, Stats.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

Comm 115.02 Definitions. In this chapter:

(1) "Acquisition" means the execution of a mortgage or lease through which the applicant acquires the rights to the property that will be used as a business incubator.

(2) "Applicable median household income" has the meaning given in s. 560.14 (1) (a), Stats.

(3) "Business incubator" has the meaning given in s. 560.14 (1) (b), Stats.

(4) "Cash match" means a cash contribution to an applicant's project.

(5) "Ceases operations" means the removal of all tenants from the business incubator, the cessation of shared services or managerial assistance by the business incubator and, the conversion of the business incubator to some other use by the applicant or the organization that operates the business incubator.

(6) "Community-based organization" has the meaning given in s. 560.14 (1) (c), Stats.

(7) "Department" means the department of commerce.

(8) "Economic development diversification plan" means a plan which has as its goal and objectives the creation or retention of private sector employment or investment in the area to which the plan applies.

(9) "Extreme financial hardship area" means an area to which any 4 of the following paragraphs apply:

(a) The unemployment rate in the area is at least 150% of the state average.

(b) At least 40% of the persons residing in the area are members of households that have household income levels at or below 80% of the applicable median household income.

(c) The assessed value of real property in the area in the most recent assessment is less than the assessed value of that property in the assessment 2 years before the most recent assessment.

(d) The project will be located in an area that has been designated as a development zone.

(e) The percentage of households receiving aid to families with dependent children under s. 49.19, Stats., in the area is higher than the percentage of households receiving aid to families with dependent children in this state.

(f) In the 18 months immediately preceding the application, at least 5% of the members of the work force in a municipality where the area is located were permanently laid off by their employer.

(g) In the 3 years immediately preceding the application, the area has experienced an average unemployment rate of 20% or more.

(10) "Job" means a position providing full-time equivalent employment for an individual for at least one year following the conclusion of a project funded under this chapter.

(11) "Local economic development project" means a project specific plan for an industrial park, downtown business district, or public infrastructure project focusing on water, sewer or transportation or a training program for local economic development professionals.

(12) "Municipality" has the meaning given in s. 560.14 (1) (f), Stats.

(13) "Plan" means a document that is adopted by resolution of the governing body of an area and which documents input from area residents, identifies the economic development needs of the area, sets the goals, objectives and activities that address those needs and identifies the resources needed to implement the activities and attain the goals and objectives.

(14) "Small business" means a business which employs 25 or fewer persons.

(15) "Technology based incubator" means a business incubator which serves new or expanding technically oriented businesses.

(16) "Technically oriented business" means a business which is part of a new or emerging industry and either sells a technically sophisticated service or product or, utilizes a technically sophisticated production process.

(17) "Tenant revolving loan fund" means a pool of dollars which is utilized by a business or technology based incubator to make small capital loans to tenant businesses that are not available from conventional lending institutions.

(18) "Unemployment rate" means the average unemployment rate for the distressed area which is proposed to be served by the grant or in which the incubator will be located during the 18 months immediately preceding the date of submission of the application.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; renum. (1) to (10) to be (2), (3), (6) to (13), and am. (9), cr. (1), (4) and (5), Register, November, 1991, No. 431, eff. 12-1-91; r. and recr. (8) and (9), renum. (11) to (13) to be (12), (14) and (18), cr. (11), (13), (15) to (17), Register, December, 1993, No. 456, eff. 1-1-94.

Comm 115.03 Business assistance grants. (1) The department may make a grant to a community-based organization to conduct a local economic development project or to provide assistance to businesses or entrepreneurs.

(2) The maximum amount that may be granted for any project of local economic development or small business assistance is the lesser of \$20,000 or 75% of the cost of the project for which the grant is made.

(3) An application by a community-based organization for a grant under this section shall be in such form as the department may require and shall include information relevant to all the applicable criteria in s. Comm 115.05 (1).

(4) Grants to provide assistance to a specific small business planning a start-up or expansion project in the service area of the community-based organization may be for one or more of the following direct management services:

- (a) Production of a feasibility study.
- (b) Production of a financial plan, a financial projection, or both.
- (c) Production of a business plan.
- (d) Assistance with the preparation of loan applications.
- (e) Assistance with the review of in-house operating procedures.
- (f) Entrepreneurship and management training.

(5) Grants to provide assistance for a local economic development project in the service area of a community-based organization may be for one or more of the following:

- (a) Development of a project-specific plan for an industrial park.
- (b) Development of a project-specific plan for a downtown business district.
- (c) Development of a project-specific plan for a public infrastructure project focusing on water, sewer or transportation.
- (d) Implementation of a training program for local economic development professionals.
- (e) Development or implementation of a plan which supports a local economic project.

(6) The department shall specify an amount, not to exceed 7% of the non-administrative cost of the project, that may be used by a grant recipient to administer a grant made under this section.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; r. and rec. (4) (intro.), (5) and (6), cr. (7), Register, November, 1991, No. 431, eff. 12-1-91; am. (1), (2), (3) (a) and (d), (4) (intro.) and (c), Register, December, 1993, No. 456, eff. 1-1-94; r. and rec. (6), Register, May, 1994, No. 461, eff. 6-1-94; r. and rec. (3), r. (4), renum. (5) to (7) to be (4) to (6), cr. (5) (e), Register, April, 1996, No. 484, eff. 5-1-96.

Comm 115.035 Economic diversification planning grants. (1) The department may make a grant to a political subdivision to develop a plan to diversify its economy.

(2) The maximum amount of a grant under this section is \$10,000 and may not exceed 75% of the cost of the project for which the grant is made.

(3) An application by a political subdivision for a grant under this section shall be in such form as the department may require and shall include information relevant to all the applicable criteria in s. Comm 115.05 (1).

History: Cr. Register, December, 1993, No. 456, eff. 1-1-94; r. and rec. (3), r. (4), Register, April, 1996, No. 484, eff. 5-1-96.

Comm 115.04 Business incubator grants. (1) The department may make a grant to a community-based organization for any of the following:

- (a) To fund the operation of an existing business incubator or existing technology based incubator.
- (b) To provide technical assistance in the process of starting a business or technology based incubator, including planning, engineering, architectural and legal services, and assistance in preparation of feasibility studies and business plans.
- (c) To start a new business or technology based incubator by financing the construction, rehabilitation or expansion of a business or technology based incubator. To qualify under this paragraph, neither construction nor acquisition may have occurred prior to the date of the grant award unless the building is owned by a nonprofit, nonstock corporation, limited or no rehabilitation has taken place as of the date of the application and the nonprofit, nonstock corporation meets one of the following:

1. Received the building as a donation.
 2. Is converting a building previously owned and utilized by or for other purposes.
 3. Purchased a vacant building at or below assessed value.
- (d) To create a revolving loan fund for tenants of a business or technology based incubator.

(2) The maximum grant under sub. (1) (a) is \$30,000 in any year. The maximum grant under sub. (1) (b) is \$10,000 in any year.

The maximum grant under sub. (1) (c) is \$100,000 in any year and the maximum amount of such a grant that may be devoted to operating expenses is \$30,000. The maximum grant under sub. (1) (d) is \$50,000 in any year. The department may not make grants under sub. (1) (a) to a particular business or technology based incubator in more than 5 years. Any particular business or technology based incubator may receive no more than 2 grants under sub. (1) (b), (c) or (d). A recipient of a grant under sub. (1) (c) may not receive a grant under sub. (1) (a) for the same business or technology based incubator in the same year.

(3) An application by a community based organization for a grant under this section shall be in such form as the department may require and shall include information relevant to all the applicable criteria in s. Comm 115.05.

(4) Grant proceeds may be used only as provided in s. 560.14 (3) (a) and (d), Stats., and the contract signed under s. Comm 115.07.

(5) The department may not make a grant under this section unless the applicant has a written policy relating to how stable, maturing businesses in the incubator will establish themselves outside of the incubator within a reasonable period of time.

(6) (a) The department may make a grant under sub. (1) (b), (c) or (d), only if the applicant agrees to operate the incubator for at least 5 years following receipt of the grant. Should the incubator cease operations during the 5 year period, the department may require repayment as follows:

1. If the incubator ceases operations during the first year, than the department may require repayment of up to 100% of grant funds received.

2. If the incubator ceases operations during the second year, than the department may require repayment of up to 80% of grant funds received.

3. If the incubator ceases operations during the third year, than the department may require repayment of up to 60% of grant funds received.

4. If the incubator ceases operations during the fourth year, than the department may require repayment of up to 40% of grant funds received.

5. If the incubator ceases operations during the fifth year, than the department may require repayment of up to 20% of grant funds received.

(b) If the incubator is sold during the 5 years following receipt of a grant under sub. (1) (b) or (c), the applicant shall pay to the department the lesser of that part of the sale price which exceeds the original acquisition cost or the grant amount. If the incubator is sold during the 5 years following receipt of a grant under sub. (1) (d), the applicant shall return to the department that part of the revolving loan fund that has not been loaned to tenants of the incubator plus any loan repayments made by tenant loan recipients including all future loan repayments when they are made.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (2), r. and rec. (6) (intro.), Register, November, 1991, No. 431, eff. 12-1-91; am. (1), (3), (4) (intro.), (a), (c), (d), (f), (h), (5), (6) (intro.), (c) to (f), (8), cr. (4) (g) to (x), (6) (l) to (s), Register, December, 1993, No. 456, eff. 1-1-94; am. (8) (b), Register, May, 1994, No. 461, eff. 6-1-94; renum. (3) to be (2), cr. (3), r. (4), (6) and (9), renum. (7) and (8) to be (4) and (6), Register, April, 1996, No. 484, eff. 5-1-96.

Comm 115.045 Regional economic development grants. (1) The department may make a grant under this section to a community-based economic development organization for regional economic development activity if all of the provisions of s. 560.14 (4) (a), Stats., apply.

(2) Before awarding a grant under this section, the department shall consider all of the following:

(a) Each of the factors in s. Comm 115.05 (1) (a).

(b) The prospects for new investment and economic development in the region that may result from the proposed regional economic development activity for which funding has been requested under this section.

(c) The amount of investment that is likely to result from the economic development activity.

(d) The likely impact of the economic development activity on the economy of the region.

(e) The likelihood that one or more businesses will relocate outside the region if the economic development activity does not occur.

(f) The size of the region affected by the economic development activity.

(g) The likelihood that the economic development activity will enhance other economic development efforts, complement an existing development zone, development opportunity zone or enterprise development zone project, or build upon other economic development activities in the region.

(h) The likelihood that the economic development activity will result in increased spending in the region by persons who reside outside the region.

(3) An application for a grant under this section shall be in such form as the department may require and shall include information relevant to the criteria in subs. (1) and (2).

History: Emerg. cr. eff. 11-27-95; cr. Register, April, 1996, No. 484, eff. 5-1-96.

Comm 115.05 Grant considerations. (1) Before making a determination under s. Comm 115.03, 115.035 or 115.04, the department shall consider all of the following:

(a) The level of economic distress in the area, as measured by the following factors:

1. The unemployment rate in the area.
2. The percentage of persons in the area with low to moderate income.
3. The percentage of households in the area receiving aid to families with dependent children under s. 49.19, Stats.
4. The number of persons in the area permanently laid off because of a major business closing subject to s. 109.07, Stats.
5. The extent to which the property values in the area are declining.

6. The extent to which the population in the area is declining.

(b) The need and demand for the project.

(c) The need for state financial assistance.

(d) The qualifications of the persons who will be managing and operating the project.

(e) The level of community support, including financial support, for the project.

(f) The viability of the project.

(g) The likelihood that the project will result in the creation or retention of jobs.

(h) The likelihood that the project will result in business development.

(i) Whether the project is located in or near an area that has been designated as a development zone under s. 560.71, Stats., a development opportunity zone under s. 560.795, Stats., or an enterprise development zone under s. 560.797, Stats.

(2) In addition to the factors in sub. (1), before making a grant to a community-based organization under s. Comm 115.04, the department shall consider all of the following:

(a) The potential of the business incubator or technology-based incubator to help start businesses.

(b) The potential of the business incubator or technology-based incubator to provide employment opportunities.

(3) In addition to the factors in subs. (1) and (2), before making a grant to a community-based organization for a revolving loan fund under s. Comm 115.04 (1) (d), the department shall consider all of the following:

(a) The need and demand for a tenant revolving loan fund.

(b) Local bank support for and participation in the tenant revolving loan fund.

(c) The availability of local professionals to participate in tenant revolving loan fund activities.

(d) The operating plan for the tenant revolving loan fund.

History: Cr. Register, April, 1996, No. 484, eff. 5-1-96.

Comm 115.06 Distribution of funds. (1) Out of each annual appropriation under s. 20.143 (1) (fg), Stats., the department shall set aside an amount equal to the greater of \$100,000 or 10% for grants under s. Comm 115.045, no less than 25% for grants made under ss. Comm 115.03 and 115.035 and no less than 25% for grants made under s. Comm 115.04. Following the receipt and examination of applications, the department shall determine that part of the remainder of the appropriation that shall be used for grants under ss. Comm 115.03 and 115.035 and that part that shall be used for grants under s. Comm 115.04.

(2) Grant funds received under this chapter shall not be used to replace funds from any other source.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; r. and recr. (1), Register, November, 1991, No. 431, eff. 12-1-91; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1993, No. 456; emerg. am. eff. 11-27-95; renum. from DOD 15.05 and am. (1), Register, April, 1996, No. 484, eff. 5-1-96.

Comm 115.07 Application procedures. (1) The department shall prepare application manuals for grants under ss. Comm 115.03, 115.035, 115.04, and 115.045 which it may update as needed. The manuals shall contain the application procedures, requirements and instructions for funding under this chapter.

(2) The department shall hold annual competitions for grants under s. Comm 115.03, 115.035, 115.04 and 115.045. The competition for grants under s. Comm 115.04 shall be divided into 4 categories for s. Comm 115.04 (1) (a), (b), (c) and (d) grant determinations.

(3) The department may make a grant under ss. Comm 115.03, 115.035, 115.04 or 115.045 after examining the application and any other information it deems relevant if, based upon the applicable criteria in ss. Comm 115.045 and 115.05, the application submitted by the applicant compares favorably to other applications received during the fiscal year. The department shall fund only those proposals which, in its judgement, effectively address the applicable criteria even if the department's determination results in the expenditure of less than the total funding allocated for such grants under s. Comm 115.06 (1).

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (2), Register, December, 1993, No. 456, eff. 1-1-94; emerg. am. eff. 11-27-95; renum. from DOD 15.06 and am. (1) and (2), cr. (3), Register, April, 1996, No. 484, eff. 5-1-96.

Comm 115.08 Contracts. Successful applicants shall be required to enter into a contract with the department for the purposes 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 applicant to perform its obligations under the contract. Amendments to these contracts may be adopted by the written consent of both parties.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; renum. from DOD 15.07, Register, April, 1996, No. 484, eff. 5-1-96.

Comm 115.09 Reporting and auditing. Each successful applicant shall provide the department periodic financial and program reports. A financial audit shall be submitted at the end of each contract that is for an amount greater than \$30,000. The cost of the audit may be covered by the grant. 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, May, 1990, No. 413, eff. 6-1-90; am., Register, November, 1991, No. 431, eff. 12-1-91; renum. from DOD 15.08, Register, April, 1996, No. 484, eff. 5-1-96.

