

ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration proposes an order to create chapter Adm 48 of the Wisconsin Administrative Code, relating to the department's comprehensive planning and transportation planning grants to local governmental units.

Analysis Prepared by the Department of Administration:

Statutory Authority: ss. 16.004 (1), 16.965(5) and 227.11 (2) (a), Stats.

Statutes Interpreted: ss. 16.965 (2), and 16.9651 (2), Stats.

The Wisconsin Land Council is attached to the Department of Administration. The Council is authorized to promulgate rules relating to the methodology of determining preferences in awarding grants.

The purpose of the code is to establish the procedures, methodology and evaluation criteria for planning grants to local governmental units. The proposed rule codifies the application, evaluation and award process used by the department and approved by the Wisconsin Land Council for the FY2001 comprehensive planning and transportation planning grant cycle.

The following are the major provisions proposed by the Department:

1. Specify the activities and costs eligible for grant funding, including consultant services, computer hardware, software and data acquisition and education, outreach and other activities related to development and adoption of a comprehensive plan. [Adm 48.03 (1)]
2. Establish annual grant application procedures and time frames. The department requires the planning grant manual, including all application materials and instructions, to be available by September 1, of each year. The grant application deadline is November 1. [Adm 48.04(1) & (5)]
3. Establish base funding levels based on population estimates of the local governmental unit. At a minimum, the department will fund 50% of the base funding level. [Adm 48.05 (1) & (2)]
4. Provide a financial incentive for local governmental units that incur comprehensive plan development costs below the unit's base funding level. The department may fund up to 75% of the actual plan cost when the cost is less than the base funding level. [Adm 48.05 (3)]
5. Provide a financial incentive for multi-jurisdictional plans when 2 or more local governmental units participate in the development of a single plan that covers the jurisdictions of those governmental units and where the plan is adopted separately by each unit. Funding for each city, village and town participating will be increased by 10% of their base funding level. [Adm 48.05 (5)]
6. Provide a financial incentive for multi-jurisdictional plans when all towns within a county participate jointly under a county plan. In addition to each town being

eligible to receive an additional amount equal to 10% of the town base funding level, the county will also be eligible to receive an additional amount equal to 10% of the county base funding level. [Adm 48.05 (6)]

7. Prohibit the local governmental unit from using federal grants to fund more than 50% of the required local match. The required local match is the difference between the comprehensive plan cost and the grant provided by the department. [Adm 48.05 (7)]
8. Establish the scoring criteria for evaluating grant applications based on the preferences in s. 16.965(4), Stats. [Adm 48.06]
9. Establish the percentage of the total points assigned to each preference. [Adm 48.06]
10. Require the department to prepare the planning grant priority list based on the established scoring criteria and available funds. To comply with ss. ~~16.085~~16.965 (4) & ~~16.065~~16.965 (2), the department will obtain approval from the Council and department of transportation before awarding comprehensive planning and transportation planning grants. [Adm 48.07 (3) & 48.08]
11. Establish the grant period for the local governmental unit to complete and submit the adopted plan to the department. The grant period will be 30 months, 36 months or 42 months based on population unless the local governmental unit committed to a shorter time in the grant application. Multi-jurisdictional plans will have an additional 6 months to complete the process. [Adm 48.09 (2)]
12. Specify that the department withhold 25% of the grant award until the grantee submits a copy of the adopted comprehensive plan to the department and the department verifies that the plan meets the provisions of s. 66.1001, Stats. If the project has not been completed, the department may seek repayment of previously distributed funds. [Adm 48.09 (4) & ~~(6)~~(8)]
- ~~13. Establish an appeals process for the awardee to appeal any dispute of the terms of the grant agreement to the Council. The Council will review the dispute and make a recommendation to the department. [Adm 48.10]~~

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Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

TEXT OF RULE:

SECTION 1: Adm 48 is created to read.

Chapter Adm 48

Comprehensive Planning and Transportation Planning Grants Program

Adm 48.01 Purpose and authority. This chapter is promulgated under the authority of ss. 16.004(1), 16.965(5), and 227.11, Stats., to implement ss. 16.965 and 16.9651, Stats.

Adm 48.02 Definitions. In this chapter:

- (1) "Applicant" means a local governmental unit as defined in ss. 16.965(1)(a) and 16.9651(1), Stats., applying for a grant under this chapter.
- (2) "Base funding level" means the levels found in the table in s. Adm 48.05(1).
- (3) "Comprehensive plan" means a plan as defined in s. 66.1001(1)(a), Stats.
- (4) "Council" means the Wisconsin land council as defined in s. 15.107(16), Stats.
- (5) "Department" means the department of administration.
- (6) "Grantee" means an applicant that has been awarded a grant under a signed grant agreement with the department.
- (7) "Grant agreement" or "agreement" means a contract signed by the local governmental unit to complete a comprehensive plan under s. 66.1001, Stats., and the department.
- (8) "Grant period" means the period of time specified in s. Adm 48.09(2).
- (9) "In-kind services" means services rendered ~~through~~ by the local governmental unit defined in s. 66.1001(1)(b), Stats. Federal grant funds are not included as in-kind services.
- (10) "Multi-jurisdictional plan" means 2 or more local governmental units participating in the development of a single comprehensive plan that covers the jurisdictions of those local governmental units which is adopted separately by each unit under s. 66.1001, Stats. A county comprehensive plan is a multi-jurisdictional plan if the county and 2 or more local governmental units located in the county participate and adopt the plan.
- (11) "Plan" and "planning effort" means a comprehensive plan as defined in s. 66.1001(1)(a), Stats.
- (12) "Plan update" means a revision to an existing county development plan under s. 59.69(3), Stats., or to a master plan under ss. 62.23(2) or (3), or 66.0309(8), (9) or (10), Stats., to comply with the comprehensive plan provisions of s. 66.1001, Stats. A plan update may include a revision to an existing comprehensive plan under s. 66.1001, Stats.

(13) "Planning grant manual" means the document published annually by the department which includes the grant application, instructions, application and scoring timelines, detailed scoring, application review process, funding availability, and other pertinent information relating to the current grant cycle.

(14) "Planning grant priority list" means the department's ranking of grant applications by the numeric order of the scores.

Adm 48.03 Eligible activities. (1) An applicant may apply to the department for a grant to develop a plan or plan update for any of the following activities:

(a) Services and activities included in ss. 16.965(2) and 16.9651(2), Stats., including contracting for planning consultant services, public planning sessions, educational activities, and purchase of computerized planning data, planning software and hardware required to utilize planning data or software.

(b) Development of the plan document including printing costs.

(c) Public participation and outreach activities including educational materials, citizen surveys, internet activities and newsletters.

(d) Development, purchase and documentation of data, maps and computerized information used within the plan or plan update as follows:

1. Digital mapping and data development activities funded under this grant such as geographic information system development shall be consistent with applicable county land records modernization plans developed under s. 59.72(3)(b), Stats.

2. Digital mapping and data development activities funded under this grant may not duplicate efforts funded through the Wisconsin land information program under s. 16.966, Stats.

NOTE: Approved land records modernization plans and the planning grant manual can be obtained from the Office of Land Information Services, Department of Administration, P. O. Box 1645, Madison, WI 53701-1645 (telephone 608/267-2707). This information can also be obtained at the following website: <http://www.dca.state.wi.us/ois/>.

(e) Other activities that the applicant deems necessary in the preparation of a plan or plan update except ineligible activities noted under s. Adm 48.03(2).

(2) The following activities are ineligible for funding under this grant:

(a) Segmented activities not related to the development of a plan or plan update such as highway corridor plans, outdoor recreational plans and recreational trail plans.

(b) Planning activities and plan development costs incurred by the applicant prior to the council approving the grant priority list under s. Adm 48.08.

(c) Costs incurred by the applicant to prepare the grant application.

(d) Activities undertaken by applicants that have received a fully funded planning grant under s. Adm 48.05 within the previous ten years.

(e) Purchase of property or land.

Adm 48.04 Grant application. (1) The department shall make the planning grant manual available by September 1st of each year.

(2) All grant applications shall be completed on forms provided by the department and follow instructions according to the planning grant manual.

(3) All grant applications shall be ~~submitted on the authority of the local governmental unit-~~ approved by specific action of each governmental unit participating.

(4) The department shall review the submitted application for consistency with eligible activity requirements and may delete parts of the request for grant funding that do not reasonably relate to the development and adoption of a plan.

(5) Signed grant applications must be received by the department by November 1st.

(6) The department shall make copies of submitted application materials available to the public after the planning grant priority list has been approved under s. Adm 48.08(1).

Adm 48.05 Planning grants. (1) The department shall provide grants based on the population from the department's official population estimates of the local governmental unit and the base funding level noted in the table below.

Population	Base Funding Level
1 to 2,000	\$20,000
2,001 to 5,000	\$30,000
5,001 to 10,000	\$40,000
10,001 to 25,000	\$60,000
25,001 to 50,000	\$100,000
50,001 to 100,000	\$150,000
100,001 to 200,000	\$200,000
Over 200,000	\$350,000

(2) Subject to availability of funds, applicants shall be eligible for not less than 50% of the base funding level noted in sub. (1) except as provided in sub. (3).

(3) When an applicant's cost for the comprehensive plan is less than the base funding level noted in sub. (1), the community shall be eligible for up to 75% of the actual plan costs not to exceed the eligible grant amount in sub. (2).

Example: A town's population is 300. The town's proposed cost of plan is \$12,000. The town would be eligible for up to a \$9,000 grant.

(4) When the population of the applicant is within 5% of the next higher population category, the applicant's base funding level shall be the average of the 2 categories.

Example: A village's population is 1,993. The eligible base funding level of the village is \$25,000

(5) For a multi-jurisdictional plan, each local governmental unit participating within the application shall add together the base funding levels of each unit participating plus add an additional 10% incentive of the total base funding level for each city, village and town.

Example 1:

Town of Badger (pop: 1,400)	\$20,000
Village of Dairyland (pop: 2,700)	+ \$30,000
Total Base	= \$50,000
50% base award	= \$25,000
10% Incentive on Total Base	+ \$ 5,000
Maximum Grant Award	= \$30,000

Example 2:

County of Holstein (pop: 112,600)	\$200,000
Town of Robin (pop: 1,400)	+ \$20,000
Town of Galena (pop: 947)	+ \$20,000
Town of Guernsey (pop: 2,700)	+ \$30,000
Town of Violet (pop: 865)	+ \$20,000
Town of Granite (pop: 1,180)	+ \$20,000
Total Base	= \$310,000
50% base award	= \$155,000
10% Incentive for each town	+ \$11,000
Maximum Grant Award	= \$166,000

(6) For a multi-jurisdictional plan where all towns within a county participate jointly under a county plan and are included within a single grant application, the maximum grant award ~~with shall~~ also include a 10% incentive of the county base funding level.

In s. Adm 48.05(5), Example 2, if all towns in Holstein Co. participate, the maximum grant award increases by the additional \$20,000 incentive (10% of \$200,000 = \$20,000).

(7) A grantee’s local match is the difference between the total cost for the comprehensive plan development and the grant provided under this chapter. A grantee’s local match may be financed in the annual budget, by in-kind services and through grants from other sources. Not more than 50% of the local match may be through federal grants.

(8) The grant may contain multiple state and federal funding sources. The department shall comply with the requirements and provisions of the funding sources and shall require grantees to comply with any requirements related to the funding sources. Requirements of these funding sources shall be outlined in the planning grant manual.

Adm 48.06 Grant application scoring criteria. The grant application scoring criteria is based upon preferences in s. 16.965(4), Stats., and shall ~~include the following basis:~~ be scored as follows:

(1) Thirty percent of the total points available shall be assigned to addressing the interests of overlapping or neighboring jurisdictions. Applications may be evaluated based on the applicant:

(a) Providing a list of participants anticipated within the development of a plan or plan update and addressing coordination efforts within the planning process with these participants.

(b) Identifying the process to review existing plans of these participants and identifying discrepancies between plans.

(c) Addressing consistency of plans, especially regarding border issues between jurisdictions.

(d) Addressing implementation efforts to minimize conflicts between jurisdictions.

(e) Including proposals for coordination within extraterritorial boundaries through intergovernmental cooperation techniques.

(f) Including proposals for cooperative agreements.

(g) Engaging in a multi-jurisdictional plan as defined in s. Adm 48.02(10).

(2) Twenty-five percent of the total points available shall be assigned to providing a specific description of the means by which all of the local, comprehensive planning goals specified in s. 16.965(4), Stats., will be achieved. Applications may be evaluated based on the applicant:

(a) Addressing each of the goals and discussing the specific elements within s. 66.1001, Stats., in which each of these goals will be addressed.

(b) Describing specific locational issues within the discussion of the goals such as population changes, transportation needs, environmental issues, housing issues and other planning issues.

(c) Describing the goals in a coherent and consistent manner between all goals.

(3) Twenty percent of the total points available shall be assigned to providing a description of the process to identify smart growth areas. Under s. 16.965, Stats., a smart growth area is an area that will enable the development and redevelopment of lands with existing infrastructure and municipal, state and utility services, where practicable, or that will encourage efficient development patterns that are both contiguous to existing development and at densities which have relatively low municipal, state governmental and utility costs. Applications may be evaluated based on the applicant:

(a) Identifying the planning process for identifying potential smart growth areas and the policy implications for implementing these areas.

(b) Describing the implementation of smart growth areas.

(c) Developing these areas cooperatively with adjacent and overlapping jurisdictions.

(d) Identifying demographic, social and economic changes within the past ten years.

(4) Twelve percent of the total points available shall be assigned to including planning efforts, including subsequent updates and amendments, that include development of

implementing ordinances, including ordinances pertaining to zoning, subdivisions and land division. Applications may be evaluated based on the applicant:

- (a) Addressing the process of developing or updating ordinances and other implementation strategies that are consistent with the provisions of the plan or plan update.
 - (b) Identifying land use issues related to new, anticipated, or potential transportation facilities or improvements.
 - (c) Identifying innovative plan implementation techniques such as improved processes and coordination techniques among neighboring and overlapping jurisdictions, community design guidelines and other techniques.
 - (d) Describing the level of applicant's zoning authority.
- (5) One percent of the total points available shall be assigned to including planning efforts contemplated for completion within 30 months from the date the grant is awarded.
- (6) Twelve percent of the total points available shall be assigned to including planning efforts that provide opportunities for public participation throughout the planning process. Applications may be evaluated based on the applicant:
- (a) Identifying the process for determining and adopting public participation procedures and address all requirements found in s. 66.1001(4)(a), Stats.
 - (b) Proposing creative and innovative public participation efforts.
 - (c) Providing a variety of opportunities for broad public participation throughout the planning process.
 - (d) Providing opportunities for neighboring and overlapping jurisdictions to participate.

Adm 48.07 Grant application evaluation. (1) The department shall evaluate and score applications based on the scoring under s. Adm 48.06.

(2) When developing the planning grant priority list, the department through a peer review process identified within the planning grant manual, shall rank all applications according to the applicant's total score received.

(3) The department shall establish the threshold in the planning grant priority list for determining which applications will be funded on the basis of the grant evaluation under this section and the availability of grant funds.

(4) The department shall prepare a detailed summary of expenditures for proposed grant awardees identified under sub. (3), including funding sources and any funding source requirements. The department shall forward the summary to the council as required by s. 16.965, Stats., the department of transportation as required by s. 16.9651, Stats., and any other agency as necessary due to funding sources.

Adm 48.08 Grant awards. (1) The council shall review and approve or disapprove by resolution, the grant priority list including activities proposed to be funded in compliance with ss. 16.965(4) and 16.9651(2), Stats. The department ~~will~~ shall receive approval from the council before awarding a grant.

(2) The department shall provide the department of transportation and other agencies, where required, with the detailed summary of activities proposed to be funded through transportation planning grants in compliance with s. 16.9651(2), Stats. The department ~~will~~ shall receive written approval from the secretary of the department of transportation before awarding a transportation planning grant.

(3) Grant awards are contingent upon the execution of a grant agreement. Failure of an applicant to execute a grant agreement shall result in withdrawal of the offer. The department and the applicant may negotiate the specific budget items, project goals, and other terms and conditions prior to executing the grant agreement. Terms of a grant award shall be administered through the grant agreement.

Adm 48.09 Grant Administration. (1) Accounting for all project funds shall be in conformance with generally accepted accounting principles and practices, and shall be recorded by the grantee. Supporting records of expenditures shall be maintained in sufficient detail to show that costs were incurred for the purposes for which the grant was made. Grant records shall be maintained for a period of 3 years after the grant award.

(2) The grant period extends from the date that the department executes the grant agreement to the date the local governmental unit submits the adopted plan to the department in compliance with s. 66.1001(4)(b), Stats. The contract dates shall not extend beyond time limits for a comprehensive plan under s. 66.1001(3), Stats. Unless the applicant commits to a shorter time in the application, the applicable grant period assigned in the grant agreement ~~is~~ shall be as follows:

Population	Single-Jurisdictional Plan	Multi-Jurisdictional Plan
1 to 25,000	30 months	36 months
25,001 to 50,000	36 months	42 months
50,001 and up	42 months	48 months

(3) The grantee may submit claims for payment to the department on forms provided by the department. The grantee shall submit at least one claim during each 12-month time period commencing with the date the department signs the grant agreement. The department shall reimburse awardees not more than quarterly. All claims shall be consistent with the grant agreement relative to expenditures within the scope of work and estimated costs. All claims shall include documentation of progress under the terms of the grant agreement.

(4) The department shall withhold 25% of the grant award as final payment until all of the following occur:

(a) The grantee provides the department with a copy of the adopted plan as provided by s. 66.1001 (4)(b), Stats., and the department verifies the plan meets all provisions of s. 66.1001, Stats.

Note: This verification does not indicate a certification of compliance with s. 66.1001, Stats. This verification also does not indicate council or department approval of the plan content or policies. It is an indication that the grantee has completed the plan within the statutory requirements.

(b) The provisions of the grant agreement are met.

(5) In developing digital map data, the grantee shall adhere to widely accepted standards and use appropriate existing source data referenced in the planning grant manual.

(6) The local governmental unit shall make data developed under this grant available for public dissemination.

~~(5)~~

(7) For multi-jurisdictional plans, where one or more of the local governmental units participating in the grant have not adopted the plan by the end of the grant period, that unit or units award amount shall be withheld from the final payment under s. Adm 48.09(4).

~~(6)(8)~~ -If the department finds that the project has not been completed pursuant to s. Adm 48.09(4), by the end of the grant period, the department may seek repayment of the state share or a portion of the state share previously distributed to the grantee.

~~**48.10 Appeals process.** The awardee may appeal to the council any dispute of the terms of the grant agreement. The awardee shall submit a letter of appeal not less than 45 days prior to the end of the grant period to the department and chair of the council. The letter of appeal shall describe the dispute and provide documentation for review by the department and council. The council shall review the dispute and provide a recommendation to the department regarding the appeal. The awardee may appeal any department decisions through ch. 227, Stats.~~

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Dated: December 14, 2001

George Lightbourn, Secretary
Department of Administration