

The Wisconsin Department of Transportation adopts an order to amend TRANS 2.015(1) and (2m)(intro.), 2.04(2) to (4), 2.045, 2.05(1)(intro.) to (c), (2) and (3), 2.055(7) and (9), 2.06(1)(b), (2)(a)1. and 2., (b)1. to 3., (c)1. to 4. (d)1. and 2., and (3), and 2.10(1)(b)1., 2. and 5., relating to the elderly and disabled transportation capital assistance program

## ORDER ADOPTING RULE

### Analysis Prepared by the Wisconsin Department of Transportation

**STATUTORY AUTHORITY:** ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats.

**STATUTES INTERPRETED:** s. 85.22, Stats.

**General Summary of Rule.** Chapter Trans 2 establishes the Department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 5310 program (formerly sec. 16), and prescribes administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under 85.22, Stats. The purpose of this rule making is to clarify existing provisions of the rule as well as incorporate changes to reflect current program policy and conditions and improve program administrative procedures.

This rule:

Changes the grant cycle from a one-year cycle to a two-year cycle. This streamlines the program generating both a time and cost saving to both the Department and our grantees.

Attempts to assure that applicants will not duplicate existing services regardless of how they are funded.

Clarifies that application materials are sent to the Department as we plan to have applications materials come directly to the central office rather than the districts to further streamline the process. The exact location will be printed in the application.

Provides the Department with flexibility in assigning point values to the application questions. By doing this the Department will be able to adjust the importance of the criteria based on current transportation needs and trends getting the best possible candidates for today's market. All criteria and point values will continue to be printed in the application so the applicant knows in advance the weight of each question.

Other amendments include minor language changes.

**Fiscal Effect.** No fiscal impact is anticipated from the promulgation of this rule. It is hoped that the Department will be able to get better vehicle prices by buying larger quantities – thus stretching program dollars.

**Final Regulatory Flexibility Analysis.** This rule has no significant impact on small businesses.

**Copies of Rule.** Copies of the rule may be obtained upon request, without cost, by writing to Diane Poole, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-0189. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351. Alternate formats of the rule will be provided to individuals at their request.

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### **TEXT OF RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.15(1), 85.22(3)(h) and 227.11(2), Stats., the department of transportation hereby amends a rule interpreting s. 85.22, Stats., relating to the elderly and disabled transportation capital assistance program.

**SECTION 1.** Trans 2.015(1) and (2m)(intro.) are amended to read:

Trans 2.015(1) "Application deadline" is the first Monday in February in even numbered years.

(2m)(intro.) "Eligible applicant" means any applicant that meets eligibility requirements for assistance under the federal sec. ~~46~~ 531016 program and is one of the following:

**SECTION 2.** Trans 2.04(2) to (4) are amended to read:

Trans 2.04(2) Include in its application evidence that the proposed project will not duplicate other services ~~provided under s. 85.21, Stats.;~~

(3) Demonstrate how the proposed project will be integrated with specialized transportation services provided by public transit systems, and previous ~~other and~~

~~previous federal~~ federal sec. 5310 program grantees and other transit agencies located within the applicant's service area; and

(4) Include in its application evidence that the transportation service proposed for the general elderly and disabled public was designed with the cooperation of the appropriate county agencies, ~~such as~~ county agencies, such as committees or commissions on aging and boards created under ss. 51.42 [http://folio.legis.state.wi.us/cgi-bin/om\\_isapi.dll?clientID=86760&hitsperheading=on&infobase=stats.nfo&jump=51.42&softpage=Document - JUMPDEST\\_51.42](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=stats.nfo&jump=51.42&softpage=Document - JUMPDEST_51.42) and 51.437 [http://folio.legis.state.wi.us/cgi-bin/om\\_isapi.dll?clientID=86760&hitsperheading=on&infobase=stats.nfo&jump=51.437&softpage=Document - JUMPDEST\\_51.437](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=stats.nfo&jump=51.437&softpage=Document - JUMPDEST_51.437), Stats.

**SECTION 3.** Trans 2.045 is amended to read:

**Trans 2.045 Private provider participation.** Every application shall include evidence that all other transportation providers in the applicant's service area have been afforded an opportunity to comment on the service which an applicant proposes to furnish with the vehicles to be purchased with assistance under this chapter. ~~In each case where an applicant provides this opportunity to other transportation providers, the~~ ~~This~~ ~~In each case where an applicant provides this opportunity to other transportation providers, the~~ evidence shall include copies of all correspondence between the applicant and other transportation providers, except that the evidence shall include one copy of the notice required under s. Trans 2.05(1)(d) [http://folio.legis.state.wi.us/cgi-bin/om\\_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.05%281%29%28d%29&softpage=Document - JUMPDEST\\_Trans\\_2.05\(1\)\(d\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.05%281%29%28d%29&softpage=Document - JUMPDEST_Trans_2.05(1)(d)) and a certified list of all other transportation providers to which the notice was mailed rather

than copies of all the notices actually mailed. The department may reject an application for failure to comply with this requirement.

**SECTION 4.** Trans 2.05(1)(intro.) to (c), (2) and (3) are amended to read:

Trans 2.05(1)(intro.) Each application for capital assistance under this chapter shall be considered valid only during the ~~annual~~**annual** program cycle in which it is submitted. Except as provided in [\(a\) On or before the first Monday in February \*\*in even numbered years\*\*, the applicant shall submit its completed application to the department.](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.06%283%29&softpage=Document - JUMPDEST_Trans 2.06(3) s. Trans 2.06(3), an applicant for capital assistance shall prepare an application <del>within 120 days prior to the application deadline</del><b>within 120 days prior to the application deadline</b> according to the following schedule:</p></div><div data-bbox=)

(b) Not less than 70 days before the application deadline, the applicant shall cause to be published a "Notice to Transportation Providers" in newspapers ~~likely to give notice~~ **likely to give notice** in the planned service area of the applicant. The notice shall include the applicant's name; the address and phone number of a contact person; a short description of the equipment for which the applicant is applying for a capital grant and the applicant's proposed service area.

(c) Not less than 70 days before the application deadline, the applicant shall submit its completed proposed transportation schedule and budget and shall submit a list of all other transportation providers operating within the applicant's service area to the ~~appropriate department district office~~.

(2) The department shall may not grant to any applicant except those permitted under [http://folio.legis.state.wi.us/cgi-](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.06%283%29&softpage=Document - JUMPDEST_Trans 2.06(3) s. Trans 2.06(3) an extension or waiver of any deadline specified above in sub. (1))

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extension or waiver of any deadline specified above in sub. (1) [http://folio.legis.state.wi.us/cgi-](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.05%281%29&softpage=Document - JUMPDEST_Trans 2.05(1))

[bin/om\\_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.05%281%29&softpage=Document - JUMPDEST\\_Trans 2.05\(1\).](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.05%281%29&softpage=Document - JUMPDEST_Trans 2.05(1))

(3) At the same time that an applicant submits ~~the original manuscript of the original manuscript~~ of its application to the department, it shall also submit copies for review and comment to the department's appropriate district office and to the appropriate intergovernmental review agency in accordance with Presidential Executive Order E. O. 12372. It shall also send a letter offering to submit copies for review and comment to the appropriate ~~a~~area ~~a~~agency on ~~a~~aging, and to the appropriate ~~d~~epartment of ~~h~~health and ~~f~~family ~~s~~services' ~~d~~ivision of ~~s~~strategic ~~f~~inance's area office. In order to be considered by the department, comments from these agencies must be submitted to the ~~department's appropriate district office~~ department's appropriate district office within 30 days following submission of the application to the department. The department shall give appropriate consideration to review comments.

**SECTION 5.** Trans 2.055(7) and (9) are amended to read:

Trans 2.055(7) In conducting its review, the department may request interested parties to provide additional written information.- The failure of any interested party to provide information requested by the department, or to cooperate with the department in

its review, may result in dismissal of a request for review or denial of an application for capital assistance.

(9) The decision of the director of the bureau of transit and local roads shall be the final decision of the department and may is not be subject ~~to~~ to further appeals or judicial review.

**SECTION 6.** Trans 2.06(1)(b), (2)(a)1. and 2., (b)1. to 3., (c)1. to 4., (d)1. and 2. and (3) are amended to read:

Trans 2.06(1)(b) Using the evaluation criteria, point scores will be assigned to each application. A minimum score of ~~100 points (of a possible 270)~~ is of 100 points (of a possible 270) ~~is shall be~~ required for funding consideration.

(2)(a)1. Evidence of written agreements with other agencies to supply or receive transportation ~~(0-30 points)~~; and

2. Evidence that the applicant agency is willing to structure its activities in order to effect coordinated transportation ~~(0-45 points)~~ (0-45 points).

(b)1. A capability to provide such service within the project area ~~(0-15 points)~~ (0-15 points);

2. The development of a reasonable schedule of service to these nonclient individuals ~~(0-30 points)~~ (0-30 points); and

3. Evidence of a financial plan by which to provide this service ~~(0-30 points)~~ (0-30 points).

(c)1. Estimate of elderly and disabled population and sources or methodology used to derive the figure ~~(0-15 points)~~ (0-15 points).

2. Percentage of the elderly and disabled population in need of service and the methodology used to arrive at the percentage ~~(0-15 points)~~ (0-15 points).

3. The percentage of the elderly and disabled population which the applicant proposes to serve and how that percentage was derived ~~(0-15)~~~~(0-15)~~.

4. How applicant's proposed service will meet the identified needs of the elderly and disabled population ~~(0-30 points)~~~~(0-30 points)~~.

(d)1. Evidence of financial capabilities of the applicant in assuring that adequate operating funds will be available to support the proposed project objectives ~~(0-15 points)~~~~(0-15 points)~~.

2. Evidence of managerial capabilities of the applicant in assuring that adequate personnel, experience, training, safety and other practices will be available to support the project objectives. Applicant experience with previous capital assistance under this chapter may be considered ~~(0-30 points)~~~~(0-30 points)~~.

(3) If available state and federal aids exceed the amount requested by applications receiving scores at or above the minimum ~~specified in sub. (1)~~~~specified in~~ [http://folio.legis.state.wi.us/cgi-](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.06%281%29&softpage=Document - JUMPDEST_Trans 2.06(1))

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**reference not valid.**, the department may accept for evaluation and funding consideration additional applications or revised applications for the remaining aids.

The department may waive the schedule specified in [http://folio.legis.state.wi.us/cgi-](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.05%281%29&softpage=Document - JUMPDEST_Trans 2.05(1))  
[bin/om\\_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.05%281%29&softpage=Document - JUMPDEST\\_Trans 2.05\(1\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=86760&hitsperheading=on&infobase=code.nfo&jump=Trans%202.05%281%29&softpage=Document - JUMPDEST_Trans 2.05(1)) s. Trans 2.05(1)

and establish alternative deadlines as it determines to be appropriate for applications submitted under this subsection.

**SECTION 7.** Trans 2.10(1)(b)1., 2. and 5. are amended to read:

Trans 2.10(1)(b)1. Monitor the expenditures of transportation funds being expended on transportation services for the elderly and disabled in the service ~~areas~~ areas;

2. Review passenger transportation plans for the service ~~areas~~ areas;

5. Act as an informational resource for local transportation providers regarding the requirements of the Americans with ~~disabilities act~~ Disabilities aAct of 1990, 42 USC 12101 et seq.; and

**(END OF RULE TEXT)**

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

Signed at Madison, Wisconsin, this \_\_\_\_ day of July, 2003.

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FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation