

Clearinghouse Rule 10-054

**PROPOSED ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to create chapter Comm 121 relating to small business innovation research assistance grants, and affecting small businesses.

Rule Summary

1. Statutes Interpreted.

Section 560.45.

2. Statutory Authority.

Sections 227.11 (2) (a) and 560.45 (3).

3. Explanation of Agency Authority.

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department. Section 560.45 (3) of the Statutes requires the Department to promulgate rules for administering the small business innovation and research assistance grants established under subchapter III of chapter 560 of the Statutes.

4. Related Statute or Rule.

The Department has various rules for administering several economic development programs, including criteria in chapter Comm 129 for grants or loans to fund professional services related to completing an application to be submitted to the federal government for obtaining early stage research and development funding.

5. Plain Language Analysis.

These rules set forth the criteria the Department or its designee will use to administer the small business innovation and research assistance grants established under subchapter III of chapter 560 of the Statutes, as enacted in 2009 Wisconsin Act 28. These grants will assist businesses in the phase of development that precedes the eligibility of the businesses in the federal Small Business Innovation Research (SBIR) program, or businesses which are participating in the Phase III, commercialization portion of that program.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

The U.S. Small Business Administration (SBA) Office of Technology administers the federal SBIR program. Federal agencies with extramural research and development budgets over \$100 million are required to administer SBIR programs using an annual set-aside of 2.5% for small companies to conduct innovative research or research and development that has potential for commercialization and public benefit. Through this competitive program, SBA ensures that the nation's small, high-tech, innovative businesses are a significant part of the federal government's research and development efforts. Eleven federal departments participate in the SBIR program. As of May 2007, over \$12 billion had been awarded to various small businesses, and the current annual allocation, in combination with the parallel Small Business Technology Transfer program, is over \$2 billion. The Department is not aware of any federal grants that provide funding for assistance with submitting applications or otherwise participating in the SBIR program.

7. Comparison With Rules in Adjacent States.

None of the adjacent States were found to have rules that are likewise primarily directed at providing grants to assist businesses with (1) establishing eligibility for or preparing applications for federal SBIR funding or (2) commercializing products developed through SBIR funding. However, the following programs in Illinois and Michigan appear to address some of the activities that are expected to occur under these proposed rules, for achieving these objective.

Illinois

The Illinois Innovation Challenge program seeks to increase the number of Illinois companies that apply for federal research grants. The program provides grant-writing assistance to eligible Illinois technology-based entrepreneurs, innovators and new venture startups to access federal SBIR funding opportunities.

The Illinois Department of Commerce and Economic Opportunity and the University of Illinois have partnered to provide qualified Illinois small businesses and entrepreneurs with consultant services for SBIR proposals. The services are designed to match the needs of the small business or entrepreneur, and assist in identifying, preparing, advancing and reviewing Phase I SBIR proposals.

Michigan

The Michigan Small Business and Technology Development Center (MI-SBTDC) has partnered with the Michigan Economic Development Corporation (MEDC) to establish the Michigan Emerging Technologies Fund (ETF). The MI-SBTDC administers the ETF through a contractual agreement with the MEDC authorized by the Michigan Strategic Fund Board. Funding for the program is provided through the Michigan 21st Century Jobs Fund. Since 2008, \$4.2 million has been allocated to the ETF. ETF funds are awarded on a first-come, first-serve basis.

The ETF was created to provide matching grants to support commercialization of SBIR projects. The ETF matches 25% of phase I SBIR awards up to \$25,000, and 25% of phase II SBIR awards up to \$125,000. The ETF Funds must be used to help bring Michigan SBIR projects to commercialization in at least one of the four technology sectors: (1) life sciences; (2) alternative energy; (3) advanced automotive, manufacturing and materials and (4) homeland security and defense. Companies must leverage third-party funding to be eligible for ETF Funds.

Before submitting an SBIR proposal to the federal government, a company must first secure a commitment from the MI-SBTDC.

Minnesota and Iowa

Neither Minnesota nor Iowa was found to have a state-level program addressing the SBIR assistance that is addressed in these rules.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of (1) applying the corresponding provisions in section 560.45 of the Statutes; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development and business development; and (3) reviewing Internet-based sources of related federal, state, and private-sector information.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary documentation was used to determine the effect of the rules on small business was section 560.45 of the Statutes. The proposed rules and this section of the Statutes apply their private-sector requirements only to entities that choose to pursue a corresponding grant. No economic impact report was prepared.

10. Effect on Small Business.

The rules are expected to result in only beneficial effects on small business because the rules only address grants that will assist businesses in the phase of development which precedes the eligibility of the businesses in the federal SBIR program, or businesses that are participating in Phase III of that program.

11. Agency Contact Person.

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12. Place Where Comments Are to Be Submitted, and Deadline for Submission.

Comments on the proposed rules may be submitted by e-mail to sam.rockweiler@wi.gov, no later than June 16, 2010. If e-mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

File reference: Comm 121rules, analysis-p