

Clearinghouse Rule 17-003

PROPOSED ORDER OF THE STATE OF WISCONSIN

DEPARTMENT OF VETERANS AFFAIRS

ADOPTING EMERGENCY RULE REGARDING VA 2.08

THE VETERANS EMPLOYMENT AND ENTREPRENEURSHIP GRANT PROGRAM

The statement of scope for this rule to modify Chapter VA 2.08, SS 069-16, was approved by the Governor on July 22, 2016, published in Register No. 728A2 on August 8, 2016, and approved by Secretary John A. Scocos on August 19, 2016.

ORDER

The Department of Veterans Affairs proposes an order to create VA 2.08 (title), VA 2.08(1), VA 2.08(2), VA 2.08(3), VA 2.08(4) and VA 2.08(5) relating to the Veterans Employment and Entrepreneurship Grant Program.

FINDING OF EMERGENCY

The Department of Veterans Affairs finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

Due to the length of time that may be required to promulgate the rule an emergency rule is needed to ensure the DVA can provide funds early in Fiscal Year 2017 to employers to incentivize hiring of disabled veterans and entrepreneurial entities which will assist veterans in the development and growth of their own startup businesses, thereby helping improve the business startup environment within the state. Additionally, the grant can be used for employment training programs for veterans. The sooner the rule is promulgated, the sooner veteran students may be able to benefit from employment training aided by these grant funds. Unless a new rule is in place, DVA will be prevented from efficiently implementing and administering this program and applicants for the grants will not have clear guidance on program requirements by the effective date of this program. The promulgation of emergency rules will help ensure implementation of the program remains consistent through the completion of the permanent rule making process.

RULE SUMMARY/ANALYSIS

PREPARED BY THE DEPARTMENT OF VETERANS AFFAIRS

1. Statute interpreted: Section 45.437 Stats.

2. Statutory authority: Sections 45.437(4), 45.03 (2) and 227.10 (2m)

3. Explanation of agency authority:

Act 385 creates s. 45.437, Stats., which provides the Department of Veterans Affairs authority to award grants to veterans, employers, and nonprofit or organizations to assist veteran entrepreneurs, to give employers in this state incentives to hire veterans, especially disabled veterans, to help fund employment training for veterans, especially disabled veterans, and for other programs or purposes as determined by the department by rule.

Section 45.437(4) explicitly directs the Department of Veterans Affairs to promulgate rules necessary to carry out the purposes of Chapter 45 and the powers and duties conferred upon it.

Section 45.03 (1), Stats., authorizes the Secretary of the Department of Veterans Affairs to promulgate rules necessary to carry out the purposes of Chapter 45 and the powers and duties conferred upon it.

Section 227.10 (1), Stats., directs each agency to promulgate as a rule each statement of policy to govern its enforcement and interpretation of a statute.

Section 227.10 (2m), Stats., directs each agency to promulgate rules for the implementation or enforcement of any standard, requirement, or threshold.

4. Related statutes or rules:

Section 45.47 provides the definition of a grant recipient, details a grant recipient's record-keeping duties, and provides for reduction, suspension, or termination of funds to grant recipients, in addition to other legal remedies, should a grant recipient fail in those duties.

5. Plain language analysis:

The department proposes to promulgate the required rules detailing the goals grant recipients must meet and requiring that those goals be met before any grant moneys are disbursed, as well as regarding the reporting requirements regarding the expenditures of grant moneys, and audits of those records to ensure compliance.

The proposed new policies will establish the general criteria, procedures, requirements and conditions for employers and non-profit organizations to apply for grant funds not to exceed \$500,000 in aggregate per fiscal year.

6. Summary of, and comparison with, existing or proposed federal statutes and regulations.

The Veterans Employment and Entrepreneurship Grant Program is administered under the authority of state law. There are no existing or proposed federal regulations that address the activities to be regulated by the rule.

7. Comparison with rules in adjacent states:

In reviewing the statutes, rules and websites of veterans departments of adjacent states revealed no similar grant program

8. Summary of factual data and analytical methodologies:

The Department analyzed the grant processes of state agencies experienced in the administration of grants and used those processes as a foundation for the rule and application procedures.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

There is no anticipated impact on small businesses.

10. Effect on small business:

There is no anticipated impact on small businesses.

10. Fiscal Estimate:

This rule will have no fiscal impact on small businesses. The program described by this rule may provide funds to some small businesses. It requires the completion of an application if the business wishes to receive grant funds, but imposes no duty on businesses not wishing to apply for the grant funds.

11. Comments and opinions prepared by the Board of Veterans Affairs under s. 45.03(2m), Stats.:

The Board members unanimously voted to approve adopting the proposed language to Chapter VA 2.08, the Employment and Entrepreneurship Program, and offered no comments.

12. Agency contact person and place where comments are to be submitted and deadline for submission:

The public record on this proposed rule-making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony, or comments supplementing testimony offered at the hearing.

Prior to September 1, 2016, comments on proposed rules should be sent to:

Kelly Brady, paralegal
Office of Legal Counsel
Department of Veterans Affairs
201 W Washington Avenue
PO Box 7843
Madison, WI 53707-7843
Phone: 608-266-7916
Email: Kelly.Brady@dva.wisconsin.gov.

Beginning September 1, 2016 comments on proposed administrative rules will be accepted through the Legislature's website at <http://docs.legis.wisconsin.gov/code/comment>. All submitted comments will be sent to the appropriate agency rules coordinators. It is necessary to include your contact information in your submitted comments if you wish to receive a response. The previous administrative rules website at health.wisconsin.gov/admnrules/public/Home will be decommissioned on September 1, 2016.

SECTION 1.

VA 2.08 (title) and VA 2.08 are created to read:

VETERANS EMPLOYMENT AND ENTREPRENEURSHIP GRANTS

(1) AUTHORITY AND PURPOSE. The purpose of this section is to establish rules for the implementation and administration of grants to assist veteran entrepreneurs, to give employers in this state incentives to hire veterans, especially disabled veterans, to help fund employment training for veterans, especially disabled veterans, as authorized under s. 45.437, Stats.

(2) APPLICABILITY. This section applies to grants awarded under s. 45.437, Stats.

(3) DEFINITIONS In this section:

(a) “Applicant” means employer or nonprofit organization located in the state, that applies for a grant to improve employment outcomes for veterans living in the state.

(b) “Department” means the Wisconsin department of veterans affairs.

(c) “Disabled veteran” means a veteran who is verified by the department to have a service-connected disability rating of at least 50 percent under 38 USC 1114 or 1134.

(d) “Employer” means a person or organization that employs people, but does not include local, state and federal government agencies.

(e) “Evaluation committee” means a committee comprised of members of the board of veterans affairs that evaluates applications made under this section.

(f) “Full-time job” means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.

(g) “Grant participant” means a person who meets the requirements of s. 45.01(12), Stats.

(h) “Nonprofit organization” is an organization described in section 501(c)(3) and 501(c)(6) of the internal revenue code which is exempt from federal income tax under s. 501(a) of the internal revenue code.

(i) “Part-time job” means a regular, nonseasonal part-time position in which an individual, as a condition of employment, is required to work fewer than 2,080 hours per year, including paid leave and holidays.

(j) "Veteran" means a person who meets the requirements of s. 45.01(12), Stats.

(4) VETERANS EMPLOYMENT GRANTS.

(a) From the appropriation account under s. 20.485 (2) (qm) the department may award a grant in any of the following amounts to any employer who hires a veteran to work at a business in this state:

1. For each disabled veteran the employer hires in a twelve month period to work a full-time job at the employer's business in this state, \$2,500 following the first 6 months of employment, and \$2,500 following the second 6 month period in which the veteran is hired.

2. Subject to sub. 4(d), for each disabled veteran the employer hires in a twelve month period to work a part-time job at the employer's business in this state, \$1,250 following the first 6 months of employment, and \$1,250 following the second 6 month period in which the veteran is hired.

(b) An employer shall apply for a grant under this section in the manner prescribed by the department.

(c) The department shall not pay a grant to an applicant in any calendar year in which the veteran voluntarily or involuntarily leaves his or her employment with the applicant.

(d) The department shall determine the amount of the grant under sub. (4) (a) as follows:

1. Divide the number of hours that the disabled veteran worked for the applicant during the calendar year by 2,080.

2. Multiply the amount of the grant under sub. (4) (a) 2., as appropriate, by the number determined under subd. 1.

(5) VETERANS ENTREPRENEURSHIP GRANTS.

(a) ELIGIBLE APPLICANT. A nonprofit organization is eligible to receive a grant under this section when all of the following apply:

1. It provides entrepreneurship training, technical or business assistance, financial assistance and/or other assistance to veteran entrepreneurs to improve employment outcomes.
2. It is current on all federal and state tax obligations.
3. It is a financially viable nonprofit organization. In this subsection, a nonprofit organization is financially viable if the nonprofit organization can meet its financial obligations for the duration of the grant period.
4. It is in current good standing with the Wisconsin Department of Financial Institutions.

(b) APPLICATION.

1. Competitive solicitation. The department shall ensure that all solicitations are conducted in a manner that provides for fairness and competition.
2. Public notice. The department shall provide reasonable public notice of all solicitations of grant proposals under s. 45.437, Stats. Notice may be made through the print, broadcast or telecommunications media, including the Internet, at the discretion of the department. The notice shall include the purpose of the grant, the selection criteria, application procedures, and all applicable solicitation

deadlines that an applicant is required to meet, or shall contain instructions for obtaining this information.

3. Application requirements. All applications for a grant under this subsection shall be submitted to the department as directed in the notice provided under par.

(b)2. All applications shall be fully completed and signed by a representative of the applicant having authority to act for the applicant, and submitted by the required filing deadline. Applications shall include all of the following:

a. Proof of nonprofit status and other financial eligibility criteria listed in sub. (5)(b) and (c).

b. Information about the organization.

c. A description of the entrepreneurship training, technical and business assistance, financial assistance and/or other entrepreneurship assistance it provides to veterans.

d. A description of the need and purpose for the requested funds.

e. The applicant shall demonstrate that it has achieved the following required program goals during the previous year.

(1) Expand entrepreneur opportunities for veterans by providing services that may include entrepreneurship training, technical and business assistance, financial assistance and/or other entrepreneurship services to veterans .

(2) Increase collaboration with other agencies to strengthen the delivery of programs, resources and services to veteran entrepreneurs.

(3) Expand outreach to underserved geographic areas of the state and underserved populations.

(c) EVALUATION OF APPLICATIONS. The evaluation committee shall evaluate grant applications submitted under this subsection against selection criteria. The department shall develop criteria to evaluate each applicant with regard to applicant's:

1. Background and Organizational History.
2. Organizational Qualifications and Past Performance.
3. Experience Working with Veterans.
4. Need for Grant Funding.
5. Outreach and Referral Plan.
6. Program Implementation Timeline
7. Monitoring and Program Evaluation.
8. Program Goals and Objectives.
9. Past Working Relationships with other Start-up Businesses and Entrepreneurship Programs.

(d) NOTIFICATION. Each applicant shall be notified in writing of the department's decision in accordance with the public notice.

(e) GRANT AWARDS. The department shall award a grant to the applicants with the highest numerical score as funds are available. A grant awarded under this section shall be made on forms prepared by the department. The award shall be signed by

the authorized representative of the department and shall list the conditions to which the award is subject.

(g) GRANT ACCEPTANCE. The authorized representative of the recipient nonprofit organization shall accept the grant award by signing the award document and returning it to the department. The department may terminate a grant award if the award is not accepted within 10 calendar days of the date of issuance by the department.

(h) AVAILABILITY OF FUNDS. All grants awarded under this section shall be contingent upon availability of funds under s. 20.485 (2) (tf), Stats.

(i) RESTRICTIONS.

1. Prohibited use of funds. (a) Grant funds shall be used only for the payment or reimbursement of expenses which are reasonable, necessary, and properly assignable to the purposes of the approved grant. Any other use of grant funds is prohibited. A grantee may not use the grant funds to supplant existing employee wages and compensation. A grantee may not use grant funds to purchase capital equipment unless specified in the grant award.

(b) A grantee agrees that no grant appropriated funds will be paid to any person for influencing or attempting to influence an officer or employee of any agency, any member of the Wisconsin Legislature, or an employee of a member of the Legislature in connection with the awarding of any state contract, the making of any state grant, the making of any state loan, the entering into of any cooperative

agreement, and the extension, continuation, renewal, amendment, or modification of any state contract, grant, loan, or cooperative agreement.

2. Violation of prohibited use of funds. If a grantee uses grant funds for prohibited activities under par. (a), the department may terminate the grant and recover funds previously paid to the grantee for that funding period on a recoupment schedule specified in the grant award.

3. Record keeping. A grantee shall maintain grant records for at least 3 years and shall provide information to the department as required by the department for the purposes of program or fiscal audits and, at the request of the department, shall appear before the department to respond to any questions about the grant and use of grant funds.

(j) AMOUNT OF GRANTS.

1. Subject to pars. (h), the amount of a grant award shall be based on the amount requested by the applicant and the amount approved by the evaluation committee.

2. The amount of a grant award is subject to the availability of funds under s. 20.485 (2) (tf), Stats.

(k) ELIGIBILITY AND CERTIFICATION. To receive services under this grant program, the following criteria must be met for all grant participants:

1. A grantee must submit a certification request to the department to verify eligibility of each grant participant.

2. Services can only be provided to grant participants verified by the department as eligible on forms created by the department.

(l) REPORTING REQUIREMENTS. A grantee receiving a grant under this section shall submit to the department data and information on the use and effect of the grant funds as specified in this section and in the grant award by the later of 6 months from the date of award or June 30 of the fiscal year in which the grant is awarded.

(m) ASSURANCES AND CERTIFICATIONS.

1. Authority to sign and accept funds. The grantee shall certify that the designated signatory official has the authority to sign on behalf of the grantee and has the authority to accept funds.

2. Compliance statement. Before the department releases grant funds, the grantee shall provide a statement that it is in compliance with applicable state and federal laws, rules, and regulations, including tax laws, the requirements of this section, and the grant award.

3. Nondiscrimination and equal opportunity. In accordance with s. 16.765, Stats., the grantee may not discriminate in violation of state or federal law and shall follow equal employment opportunity practices in the administration and delivery of program services to eligible applicants.

END OF RULE TEXT

Effective date. This rule shall take effect on date of publication in the official state newspaper pursuant to s. 227.24 (1) (c), Stats.

Dated this ____ day of _____, 2016.

STATE OF WISCONSIN
DEPARTMENT OF VETERANS AFFAIRS

John A. Scocos, Secretary