

**State of Wisconsin**  
**Department of Workforce Development**  
**Division of Workforce Solutions**

**Grants Supporting Community Child Care Initiatives**

**Chapter DWD 59**

The Wisconsin Department of Workforce Development proposes an order to create chapter DWD 59, relating to grants supporting community child care initiatives.

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**Analysis Prepared by the Department of Workforce Development**

**Statutory authority:** ss. 49.137 (4m), Stats., as created by 2001 Wisconsin Act 16, and 227.11, Stats.

**Statute interpreted:** s. 49.137 (4m), Stats., as created by 2001 Wisconsin Act 16

**Relevant federal law:** 42 USC 618; 42 USC 9858; 45 CFR Part 98 and 99

In July 2000, the Joint Finance Committee approved expenditure authority for a new program that allows the Department of Workforce Development to utilize monies available from federal child care and development block grant funds to award grants to local governments that can identify and certify the required match. Statutory authority for the program was included in 2001 Wisconsin Act 16 at s. 49.137 (4m), Stats.

The proposed rules specify the eligibility criteria and procedures for awarding the grants under s. 49.137 (4m), Stats. The department shall publish a request for proposals for community child care initiatives. Any local government or tribe that is located in Wisconsin may submit an application. A single application may be submitted by a local government or tribe that certifies all the match funds required for the requested grant amount. A cooperative application may be submitted by several local governments or tribes that submit a package of otherwise single applications that individually identify match and request separate agreements with the department. A collaborative application may be submitted by one local government or tribe on behalf of two or more local governments or tribes that provide matching funds.

A local government or tribe that applies for funds must certify matching expenditures. The minimum match expenditure required under federal law is the federal medical assistance percentage for Wisconsin for the federal fiscal year in which the match expenditure occurs. The department may round this percentage of required match to the nearest higher full percentage point. A match expenditure must be from locally-generated revenues or federal revenues specifically authorized by federal law to be used as match to federal funds. A match expenditure may not be used as match to any other state or federal funds, must be made during the required matching period, and must be made for qualifying child care services and programs, including programs with the following purposes:

- Providing low-income families with financial resources to find and access quality child care for their children.
- Enhancing the quality and increasing the supply of child care for all families, including those who receive no direct assistance under s. 49.155, Stats.
- Providing parents with a broad range of options in addressing their child care needs.
- Improving the quality of and coordination among child care programs and early childhood development programs.
- Increasing the availability of early childhood development care services and before- and after-school care services.
- Educating consumers about child care.
- Improving the health and safety aspects of child care, including regulation of child care.
- Providing crisis respite child care to children in protective services cases or in need of protective services.
- Other items permitted under 42 USC 9858 to 9858q.

Expenditures for public pre-kindergarten programs or pre-school programs operated by public school districts may not exceed 20% of the total match expenditure for each application.

A local government or tribe may use grant funds received under this chapter in the following ways:

- Enhancing the quality and increasing the supply of child care for all families, including those who receive no direct assistance under s. 49.155, Stats.
- Providing parents with a broad range of options in addressing their child care needs.
- Improving the quality of and coordination among child care programs and early childhood development programs.
- Increasing the availability of early childhood development care services and before- and after-school care services.
- Educating consumers about child care.
- Improving the health and safety aspects of child care, including regulation of child care.
- Providing crisis respite child care to children in protective services cases or in need of protective services.

A local government or tribe may not use grant funds received under this chapter for purchase of real estate; construction or major remodeling; kindergarten to 12<sup>th</sup> grade public education or care services provided to students during the regular school day; direct purchase or payment of child care services, unless the child is receiving or is in need of protective services; or public pre-kindergarten.

A local government that is awarded a grant based on a single application may not spend more than 5% of the grant on administrative costs. The department may allow a local government that is awarded a grant based on a cooperative application to spend up to 10% of the grant on administrative costs. The department may allow a local government or tribe that is awarded a grant based on a collaborative application to spend up to 15% of the grant on administrative costs.

The available grant funds will be allocated for residents of each county of the state based equally on the county's percentage of the state's low-income children and percentage of the state's births for the most recent 3-year period for which data by county has been published by the Department of Health and Family Services. The amount of an initial grant will be determined based on the amount requested by the applicant, the amount of match identified by the applicant, the amount of funding allocated to the county or counties proposed for service by the applicant, the amount of funding requested by all applicants proposing to serve residents of the county or counties involved, and the amount of funding available due to reallocation from other counties.

A continuing grant may be offered to a local government or tribe for 2 funding cycles after the initial grant was awarded. No more than 75 percent of the statewide funds available for the funding cycle may be used for continuing grants. A local government or tribe may be eligible for a continuing grant if the local government or tribe is proposing to continue the same program that was funded by the initial grant and the local government or tribe complied with all requirements associated with the initial grant. If the local government or tribe is eligible for a continuing grant and funding is available, the department may fund a local government or tribe's request for a continuing grant before initial grants are funded and at a level of 75 percent of the initial grant if matching requirements are met. Additional funds may be provided if the applicant identifies sufficient match and funds are available under initial grant rules. The amount of a continuing grant may be adjusted to reflect the applicant's record of completing previous match or spending agreements under this program and other aspects of the applicant's record of doing business with the department.

**SECTION 1. Chapter DWD 59 is created to read:**

**Chapter DWD 59**

**GRANTS SUPPORTING COMMUNITY CHILD CARE INITIATIVES**

**DWD 59.01 Authority and purpose.** This chapter is promulgated under the authority of s. 49.137 (4m), Stats., to administer a program that awards grants to local governments and tribes to improve the supply, accessibility, and quality of child care.

**DWD 59.02 Definitions.** In this chapter:

(1) “Application” means a request for funding under this chapter made in response to an RFP.

(2) “Child care” means licensed care under s. 48.65, Stats., certified care under s. 48.651, Stats., care provided under s. 49.155 (3m)(c), Stats., or care provided under 120.13 (14), Stats.

(3) “Department” means the department of workforce development.

(4) “Federal fiscal year” means October 1 of one year to September 30 of the following year.

(5) “Federal medical assistance percentage” has the meaning given in 42 USC 1396d(b).

**Note:** The federal medical assistance percentage for each state in a given federal fiscal year is determined by the federal Department of Health and Human Services and published in the *Federal Register*.

(6) “Local government” means a public sub-state jurisdiction that is located in Wisconsin and has governing and taxing authority, including counties, municipalities, public school districts, and technical college districts.

(7) “Locally-generated revenues” includes local taxes and does not include state or federal aids or shared revenue.

(8) “Low-income” means a household income at or below the maximum level established in the Wisconsin state plan for temporary assistance to needy families under 42 USC 602.

(9) “RFP” or “request for proposals” means a paper or electronically published and distributed document announcing the availability of funds, the requirements for obtaining and using the funds, and necessary procedures to be considered for funding under this chapter.

(10) “Tribe” means any federally-recognized American Indian nation that is located in Wisconsin.

**DWD 59.03 Department powers and duties.** (1) The department may grant federal funds available under 42 USC 618 to local governments and tribes that comply with 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP.

(2) The department shall publish a request for proposals for community child care initiatives.

(3) The department shall reject, or modify to bring into compliance, applications in which all or part of the local government or tribe's match expenditure or commitment fails to meet the requirements of 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP.

(4) The department shall reject, or modify to bring into compliance, applications in which all or part of the local government or tribe's plan on use of the grant funds fails to meet the requirements of 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP.

(5) The department shall establish and periodically update a formula that allocates a percentage of available funds for residents of each county of the state based equally on the county's:

(a) Percentage of the state's low-income children as estimated by the United States census bureau.

(b) Percentage of the state's births for the most recent 3-year period for which resident birth data by county is published by the department of health and family services.

(6) The department shall award and manage grants to maintain compliance with 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP, including the following:

(a) Awarding initial and continuing grants pursuant to s. DWD 59.07 (1) and (2).

(b) Monitoring compliance with match and spending requirements.

(c) Adjusting grant amounts as needed.

(7) The department may reallocate underspent or unawarded funds as permitted by 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99, and in a manner consistent with this chapter and the RFP.

(8) The department may require other measures to ensure compliance with 42 USC 618, 42 USC 9858-9858q, and 45 CFR Parts 98 and 99, as interpreted by the federal department of health

and human services; state child care policy; and to maximize federal dollars received by the state.

**DWD 59.04 Applicants. (1) ELIGIBLE APPLICANTS.** Any local government or tribe that is located in Wisconsin may submit an application for funds under this chapter.

**(2) TYPES OF APPLICATIONS.** (a) *Single application.* A single application may be submitted by a local government or tribe that certifies that all the match funds identified in the grant application represent expenditures eligible for federal match, as required in 45 CFR 98.53(e)(1)(i). An application from multiple departments within the same local government or tribe shall be considered a single application.

(b) *Cooperative application.* A cooperative application may be submitted by several local governments or tribes that submit a package of otherwise single applications that individually identify match and request separate agreements with the department. Cooperative applicants shall identify the other local governments or tribes whose applications are part of the cooperative application and indicate a plan to cooperatively develop services. Each local government or tribe whose application is part of the cooperative application shall certify that all the match funds identified in the grant application represent expenditures eligible for federal match, as required in 45 CFR 98.53(e)(1)(i).

(c) *Collaborative application.* A collaborative application may be submitted by one local government or tribe on behalf of two or more local governments or tribes that provide matching funds. The submitting local government or tribe shall be one of the local governments or tribes that certifies match and shall be the designated contract manager for the collaborative application. Each local government or tribe that provides matching funds in a collaborative application shall certify that all the match funds identified in the grant application represent expenditures eligible for federal match, as required in 45 CFR 98.53(e)(1)(i).

**DWD 59.05 Match requirement.** A local government or tribe that applies for funds under this chapter shall certify that matching expenditures represent expenditures eligible for federal match as required under 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP. The minimum match expenditure required under 42 USC 618 is the federal medical assistance percentage for Wisconsin for the federal fiscal year in which the match

expenditure occurs. The department may round this percentage of required match to the nearest higher full percentage point. A match expenditure shall comply with the following criteria:

(1) A match expenditure shall be from locally-generated revenues or federal revenues specifically authorized by federal law to be used as match to federal funds.

**Note:** 42 USC 5305(a)(9), provides that funds from the federal Community Development Block Grant under 42 USC 5301 to 5321 may be used as match

(2) A match expenditure under this chapter may not be used as match to any other state or federal funds, except that the local share of public school costs specified under the state's school aid formula shall not be considered as match to other state funds.

(3) A match expenditure shall be made during the required matching period provided in 45 CFR 98.60(d)(3) and identified in the RFP.

(4) A match expenditure shall be made for qualifying child care services and programs, including programs with the following purposes:

(a) Providing low-income families with financial resources to find and access quality child care for their children.

(b) Enhancing the quality and increasing the supply of child care for all families, including those who receive no direct assistance under s. 49.155, Stats.

(c) Providing parents with a broad range of options in addressing their child care needs.

(d) Improving the quality of and coordination among child care programs and early childhood development programs.

(e) Increasing the availability of early childhood development care services and before- and after-school care services.

(f) Educating consumers about child care.

(g) Improving the health and safety aspects of child care, including regulation of child care.

(h) Providing crisis respite child care to children in protective services cases or in need of protective services.

(i) Other items permitted under 42 USC 9858-9858q.

(5) Expenditures for public pre-kindergarten programs or pre-school programs operated by public school districts may not exceed 20% of the total match expenditure for each application.

**DWD 59.06 Use of grant funds. (1) ALLOWABLE USES.** A local government or tribe may use grant funds received under this chapter in any of the following ways:

(a) Enhancing the quality and increasing the supply of child care for all families, including those who receive no direct assistance under s. 49.155, Stats.

(b) Providing parents with a broad range of options in addressing their child care needs.

(c) Improving the quality of and coordination among child care programs and early childhood development programs.

(d) Increasing the availability of early childhood development care services and before- and after-school care services.

(e) Educating consumers about child care.

(f) Improving the health and safety aspects of child care, including regulation of child care.

(g) Providing crisis respite child care to children in protective services cases or in need of protective services.

**(2) NONALLOWABLE USES.** A local government or tribe may not use grant funds received under this chapter in any of the following ways:

(a) Purchase of real estate.

(b) Construction or major remodeling.

(c) Kindergarten to 12<sup>th</sup> grade public education or care services provided to students during the regular school day.

(d) Direct purchase or payment of child care services, unless the child is receiving or is in need of protective services, as determined by the county or tribal authority for child protective services.

(e) Public pre-kindergarten.

(f) Sectarian purposes or activities.

**(3) LIMIT ON ADMINISTRATIVE COSTS.** (a) A local government that is awarded a grant based on a single application may not spend more than 5% of the grant on administrative costs.

(b) The department may allow a local government that is awarded a grant based on a cooperative application to spend up to 10% of the grant on administrative costs.

(c) The department may allow a local government or tribe that is awarded a grant based on a collaborative application to spend up to 15% of the grant on administrative costs.

**DWD 59.07 Amount of grants. (1) INITIAL GRANT.** The amount of an initial grant shall be based on the following:



(a) The amount requested by the applicant.

(b) The amount of match identified by the applicant.

(c) The amount of funding allocated to the county or counties proposed for service by the applicant.

(d) The amount of funding requested by all applicants proposing to serve residents of the county or counties involved.

(e) The amount of funding available due to reallocation from other counties.

(2) CONTINUING GRANTS. (a) A continuing grant may be offered to a local government or tribe for 2 funding cycles after the initial grant was awarded.

(b) No more than 75 percent of the statewide funds available for the funding cycle may be used for continuing grants under this section.

(c) A local government or tribe may be eligible for a continuing grant if both of the following apply:

1. The local government or tribe is proposing to continue the same program that was funded by the initial grant.

2. The local government or tribe complied with all requirements associated with the initial grant.

(d) If the local government or tribe is eligible for a continuing grant and funding is available, the department may fund a request for a continuing grant:

1. Before initial grants are funded.

2. At a level of 75 percent of the initial grant if match requirements are met. Additional funds may be provided if the applicant identifies sufficient match and funds are available under initial grant rules.

(e) The amount of a continuing grant may be adjusted to reflect the following:

1. The requirements under paragraph (b) of this subsection.

2. The applicant's record of completing previous match or spending agreements under this program.

3. Other aspects of the applicant's record of doing business with the department.

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.

