

RULES CERTIFICATE

Department of Commerce

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Philip Edw. Albert, Deputy, Secretary of the Department of Commerce,
William J. McGoshen

and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to

Wisconsin Minority Business Finance Program

(Subject)

were duly approved and adopted by this department.

I further certify that said copy has been compared by me with the original on file in the department and that the same is a true copy thereof, and of the whole of such original.



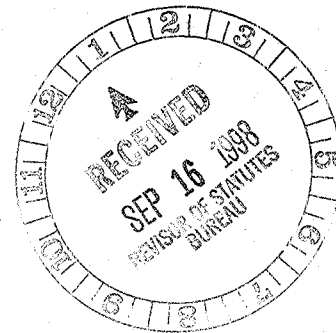
IN TESTIMONY WHEREOF, I have hereunto set
my hand at 201 West Washington Avenue
in the city of Madison, this 25th
day of August A.D. 19 98

Philip Edw. Albert
Deputy Secretary



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM



Rule No.: Comm 114

Relating to: Wisconsin Minority Business Finance Program

Clearinghouse Rule No.: 98-064

Pursuant to the authority vested in the Department of Commerce by ss. 560.02 (4), 560.85, and 227.11 (2), Stats., the Department of Commerce hereby proposes an order to amend Comm 114.01, 114.02 (1), (2), (6) and (9), 114.04 (2) and (3), 114.05 (5) and 114.06 to 114.09; to repeal and recreate Comm 114.02 (8) and (12), 114.03 (3), 114.04 (1) and 114.05 (title) and (1) to (3); and to create Comm 114.02 (2m), (5m), (7m) and (13m), 114.03 (1m) and (2m), 114.045, 114.05 (4m) and 114.055, relating to the minority business finance program.

SECTION 1. Comm 114.01 is amended to read:

Comm 114.01 PURPOSE. The purpose of this chapter is to establish a procedure for the administration of minority business early planning and development projects, finance projects, education and training projects, and revolving fund projects by the department as provided by subch. VII, ch. 560, Stats.

SECTION 2. Comm 114.02 (1) and (2) are amended to read:

Comm 114.02 (1) "Application" means a proposal from an eligible recipient or local development corporation which contains all the elements required in s. Comm 114.04 ~~or~~ 114.045, 114.05, or 114.055.

Comm 114.02 (2) "Board" means the minority business development board as defined in s. 15.155 (3), Stats.

SECTION 3. Comm 114.02 (2m) is created to read:

Comm 114.02 (2m) "Business incubator" has the meaning given in s. 560.038 (1) (a), Stats.

SECTION 4. Comm 114.02 (5m) is created to read:

Comm 114.02 (5m) "Education and training project" has the meaning given in s. 560.80 (3m), Stats.

SECTION 5. Comm 114.02 (6) is amended to read:

Comm 114.02 (6) "Eligible development project costs" means the costs of working capital, machinery and equipment, land and building acquisition, existing business acquisition and related expenses that, in accordance with good business and financial practices, are appropriately incurred in connection with a development project. "Eligible development project costs" does not include entertainment expenses or expenses incurred before the board approves a grant or loan under s.560.83 or 560.835.

SECTION 6. Comm 114.02 (7m) is created to read:

Comm 114.02 (7m) "Finance project" has the meaning given in s. 560.80 (5m), Stats.

SECTION 7. Comm 114.02 (8) is repealed and recreated to read:

Comm 114.02 (8) "Financial audit" means an audit performed to the requirements and satisfaction of the department.

SECTION 8. Comm 114.02 (9) is amended to read:

Comm 114.02 (9) "Financing is unavailable from any other source on reasonably equivalent terms" means ~~either of the following:~~

~~(a) Financing has been declined for the development or early planning project.~~

~~(b) The~~ the maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedule offered on such financing, are materially different from the financing available from the Wisconsin minority business finance program.

SECTION 9. Comm 114.02 (12) is repealed and recreated to read:

Comm 114.02 (12) "Minority business" means a minority business, as defined in s. 560.036 (1) (e), that has its principal place of business in this state.

SECTION 10. Comm 114.02 (13m) is created to read:

Comm 114.02 (13m) "Nonprofit corporation" has the meaning given in s. 560.038 (1) (b), Stats.

SECTION 11. Comm 114.03 (1m) is created to read:

Comm 114.03 (1m) The department shall award business incubator grants in accordance with the provisions of this chapter.

SECTION 12. Comm 114.03 (2) is amended to read:

Comm 114.03 (2) The board shall award development project and revolving loan fund grants and loans in accordance with the provisions of this chapter.

SECTION 13. Comm 114.03 (2m) is created to read:

Comm 114.03 (2m) The board shall award finance and education and training grants in accordance with the provisions of this chapter.

SECTION 14. Comm 114.03 (3) is repealed and recreated to read:

Comm 114.03 (3) The department shall enter into a contract with each recipient of an award under this chapter.

SECTION 15. Comm 114.04 (1) is repealed and recreated to read:

Comm 114.04 (1) The department shall prepare an application manual which it may update as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

NOTE: Written instructions for applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266-1018.

SECTION 16. Comm 114.04 (2) and (3) are amended to read:

Comm 114.04 (2) The department may not award a grant under this section unless, after considering the application and any other information it deems relevant, the department determines that the proposed early planning project meets the requirements of s. 560.84 (1) (a), (b) 1., (c), (d), (e) 1., (f), (g), (h) and (i), Stats.

Comm 114.04 (3) The department shall consider pars. (a) to (f) before awarding an early planning grant ~~from the appropriation under s. 20.143 (1) (fm), Stats.~~

SECTION 17. Comm 114.045 is created to read:

Comm 114.045 BUSINESS INCUBATOR GRANTS. (1) The department shall prepare an application manual which it may update as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

NOTE: Written instructions for applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266-1018.

(2) The department may not award more than \$100,000 in any fiscal year for incubator projects under s. 560.038, Stats. and not more than \$100,000 in any fiscal year for incubator projects under s.560.039, Stats.

(3) (a) The department may make a grant under sub. (2) only if the applicant agrees to operate the incubator for at least 5 years following receipt of the grant. Should the incubator cease operations during the 5 year period, the department may require repayment as follows:

1. If the incubator ceases operations during the first year, the department may require repayment of up to 100% of the grant funds received.

2. If the incubator ceases operations during the second year, the department may require repayment of up to 80% of the grant funds received.

3. If the incubator ceases operations during the third year, the department may require repayment of up to 60% of the grant funds received.

4. If the incubator ceases operations during the fourth year, the department may require repayment of up to 40% of the grant funds received.

5. If the incubator ceases operations during the fifth year, the department may require repayment of up to 20% of the grant funds received.

(b) If the incubator is sold during the 5 years following receipt of a grant, the applicant shall pay to the department the lesser of that part of the sale price which exceeds the original acquisition cost or the grant amount.

SECTION 18. Comm 114.05 (title), (1) (2) and (3) are repealed and recreated to read:

Comm 114.05 DEVELOPMENT PROJECT AND REVOLVING LOAN FUND GRANTS AND LOANS. (1) The department shall prepare an application manual which it may update as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

NOTE: Written instructions for applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266-1018.

(2) The board shall make the determinations required under s. 560.84 (1) (a), (b) 2., (c), (d), (e) 2. and 3., and (f) to (j), Stats., before funding a project.

(3) The board shall consider the criteria under s. 560.84 (2) (a) 2. to (f), Stats., before funding a project.

SECTION 19. Comm 114.05 (4m) is created to read:

Comm 114.05 (4m) The board may award a grant or loan under this section to a local development corporation for a revolving loan fund project which meets all of the requirements of this section and which will benefit minority businesses or minority group members who are residents of this state.

SECTION 20. Comm 114.05 (5) is amended to read:

Comm 114.05 (5) Awards by the board to ~~any local development corporation, to any eligible recipient or~~ for any development project may total no more than \$100,000 in a fiscal biennium.

SECTION 21. Comm 114.05 (5m) is created to read:

Comm 114.05 (5m) Awards by the board to any local development corporation for development projects or revolving loan fund projects may total no more than \$200,000 in a fiscal year.

SECTION 22. Comm 114.055 is created to read:

Comm 114.055 DEVELOPMENT FINANCE AND EDUCATION AND TRAINING GRANTS. (1) The department shall prepare an application manual which it may update as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

NOTE: Written instructions for applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266-1018.

(2) The board shall make the determinations required under s. 560.84 (1) (a), (c), (d), (f) to (k), Stats., before funding a project.

(3) The board shall consider the criteria under s. 560.84 (2) (b), (d), and (e), Stats., before funding a project.

SECTION 23. Comm 114.06 to 114.09 are amended to read:

Comm 114.06 CONTRACTS. Each successful applicant shall be required to enter into a contract with the department for the purposes of implementing the proposed grant or loan. The contract shall be signed by the secretary of the department and by the ~~chief executive officer of the successful applicant, or by their authorized representatives~~ person or persons authorized by the applicant to enter into the contract. ~~The contract shall contain default provisions relating to nonperformance of the provisions of the contract. The department may void a contract and seek a return of any funds released under the contract for failure by the business to perform its obligations under the contract.~~ Amendments to these contracts may be adopted by the written consent of both parties. ~~Any relocation from Wisconsin to any other state of the jobs created or retained through the project shall void the contract, and all funds paid to date shall be refunded to the department for use in support of other applications submitted under this chapter. These restrictions apply only to jobs described in the project application provided in s. Comm 114.04 or 114.05, and apply only for a term subject to negotiation between the successful applicant and the department.~~

Comm 114.07 REPORTING AND AUDITING. Each successful applicant shall be required to provide the department periodic financial reimbursement documentation and program reports on the project. A financial audit and final program report shall be submitted at the end of each ~~development project contract for projects of \$25,000 or more.~~ The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the project grant or loan. The ~~financial reports~~ reimbursement documentation, audit and program

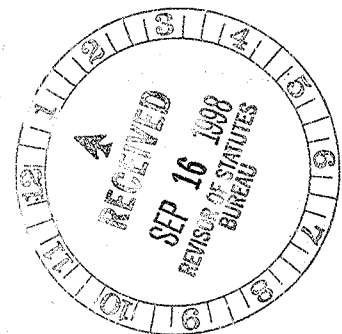
reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

Comm 114.08 ADMINISTRATION. The department shall be responsible for ~~soliciting~~ solicit applications, ~~reviewing~~ review applications, ~~awarding~~ award early planning and business incubator project grants, ~~making~~ make recommendations to the board on the disposition of development project, revolving fund, and finance or education and training project grant and loan applications, ~~entering~~ enter into contracts with successful applicants, ~~authorizing~~ authorize payments and otherwise ~~implementing~~ implement contractual obligations entailed in grants or loans made under the terms of this chapter, ~~monitoring~~ monitor project activities, ~~receiving~~ receive and ~~reviewing~~ review the financial reports reimbursement documentation and program reports submitted under s. Comm 114.07, and ~~for collecting~~ collect any repayments of ~~grants and~~ loans from successful applicants.

Comm 114.09 BOARD OPERATIONS. The board shall consider the recommendations of the department relating to development project, revolving fund, and finance or education and training project grants and loans. The board shall approve an application before the department may enter into a contract for a ~~development~~ project grant or loan. The department shall maintain records of the board proceedings and provide other staff support as may be necessary to the board.

(THE END)

Pursuant to s. 227.22 (2) (Intro). Stats, these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.



August 25, 1998

Gary Poulson
Assistant Revisor of Statutes
Suite 800
131 West Wilson Street
Madison, Wisconsin 53703-3233

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO.: 98-064

RULE NO.: Comm 114

RELATING TO: Wisconsin Minority Business Finance Program

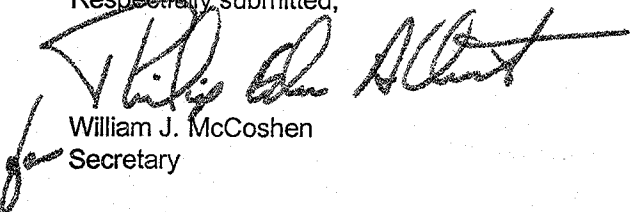
Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,


William J. McCoshen
Secretary

