

Chapter ATCP 161

AGRICULTURAL DEVELOPMENT AND MARKET PROMOTION

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Note: Chapter Ag 4 was renumbered chapter ATCP 161 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

Subchapter I — Agricultural Diversification and Development Program

ATCP 161.01 Purpose. This subchapter establishes procedural requirements for administration of the agricultural diversification and development grant program under s. 93.46, Stats.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; am. Register, March, 1993, No. 447, eff. 4-1-93; am., Register, June, 1999, No. 522, eff. 7-1-99; CR 10-122; am. Register July 2011 No. 667, eff. 8-1-11.

ATCP 161.02 Definitions. As used in this subchapter:

(1) “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

(2) “Individual” means a natural person.

(3) “Organization” means any of the following:

(a) A partnership, firm, association, corporation, or other legal entity.

(b) A cooperative organized under ch. 185, Stats., whether or not operated for profit.

(4) “Sustainable agriculture” means agricultural methods, practices, or systems that promote the long term viability of agriculture by conserving available resources, minimizing the use of nonrenewable resources, or providing viable alternative uses of available resources.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; am. (intro.); Register, March, 1993, No. 447, eff. 4-1-93; cr. (4), Register, June, 1999, No. 522, eff. 7-1-99.

ATCP 161.03 Grant requirements. (1) GENERAL. The department may award grants under s. 93.46, Stats., to individuals or organizations to fund demonstration projects, feasibility analyses, and applied research directed toward new products, technologies, and practices that will stimulate agricultural development and diversification of economic activity within agriculture.

(2) ALLOWABLE PURPOSES. The department may not award a grant under sub. (1) unless the project has at least one of the following purposes:

(a) Creation of jobs in the agricultural industry.

(b) New capital investment and expansion in the agricultural industry.

(c) Agricultural product market development and expansion.

(d) Diversification and expansion of the production, processing, and distribution of agricultural products.

(e) Commercial application of new technologies or practices related to agricultural products.

(f) Increased use of surplus agricultural products.

(g) Improvement of the competitive position of this state’s agricultural industry.

(h) Efficient use of farmland and other agricultural resources.

(i) Fund demonstration projects that will encourage the use of sustainable agriculture.

(3) PROJECT LIMITATIONS. The department may not award a grant to any project if the proposed length of the project exceeds 3 years. The total funding to a single project may not exceed \$50,000. Individual applicants may cooperate with any public or private organization in conducting a project.

(4) PROJECT CONDUCTED IN THIS STATE. The department may not award a grant under this chapter unless the grant is for a project conducted in this state.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; cr. (2) (i), Register, June, 1999, No. 522, eff. 7-1-99.

ATCP 161.04 Grant terms and conditions. (1) GENERAL. The department shall establish appropriate terms and conditions for each grant based on the project for which the grant is awarded. Terms and conditions shall be designed to ensure that grant moneys are effectively used for the purposes awarded. The terms and conditions shall be included in the grant contract under s. ATCP 161.07.

(2) PERMITTED USES OF GRANT FUNDS. Permitted uses for grant funds include the following:

(a) Operating expenses including salaries and wages, consulting services, travel, supplies and materials, and public information costs.

(b) Real estate rental payments. Real estate mortgage payments or land contract payments through which a grantee acquires equity in real estate are not a permitted use of grant funds.

(c) Equipment leases.

(d) Purchase of small or low cost equipment items which are normally depreciated within one year.

(e) Purchase of capital equipment. The amount awarded for this purpose in each year of the grant may not exceed the annual straight-line depreciation which would be allowed under generally accepted accounting principles for acquisitions of large capital equipment having a depreciation schedule longer than one year.

(3) PROHIBITED USES OF GRANT FUNDS. Grant funds may not be used for any of the following, except as authorized under sub. (2):

(a) Capital acquisitions by the grantee such as the purchase of land, buildings, or machinery.

(b) Administrative overhead expense.

(c) Funding for business start-up costs or expansion.

(d) Business loan payments.

(4) MATCHING CONTRIBUTIONS. The department may give preference to applicants providing matching funds in the form of capital, land, labor, equipment, or other eligible categories of expenses.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.05 Application procedures. (1) APPLICATION PERIODS. An individual or organization may file an application for an agricultural diversification or development grant between January 15 and March 15 of each calendar year. Additional application periods may be scheduled at other times at the discretion of the department.

(2) REQUEST FOR PROPOSALS. The department shall give notice of the annual and any additional application periods under sub. (1) by issuing a request for grant proposals. The department shall issue its request for grant proposals by mail to county agriculture extension agent offices, vocational, technical and adult education districts, the department of development, the Wisconsin housing and economic development authority, and other persons on its program mailing list compiled from inquiries concerning the grant program. The department shall also issue a press release announcing its request for proposals to news media likely to give notice to the public.

(3) APPLICATION FORMAT. An application for a grant under this chapter shall be in the form prescribed by the department in its request for proposals. An application shall include all of the following:

(a) A cover page which includes:

1. The name, address, and telephone number of the applicant.
2. The title and brief description of the project.
3. The amount of funding requested.
4. The duration of the proposed project.
5. The name and address of the principal contact person for the proposed project.

(b) A statement identifying the problem or opportunity to be addressed and the importance of the project to Wisconsin agricultural economic development and diversification.

(c) A project summary describing the project's objectives, expected results, economic benefits, the approach to be used in addressing the stated problem or opportunity, and the role the proposed project will play in achieving the objectives of the grant program.

(d) A specific statement of project purposes, which shall be consistent with one or more of the purposes under s. ATCP 161.03 (2).

(e) A discussion of the expected results from the proposed project, how those results relate to the objectives of the grant program, and how they will benefit agriculture.

(f) A work plan which identifies specific project tasks, a timetable for completing the tasks, and the persons responsible for completing the tasks.

(g) The practical or commercial applications of the proposed project, including any economic, environmental, or other benefits to agriculture which will result from the project.

(h) Names, addresses, occupations, and project-related qualifications of key personnel responsible for carrying out the proposed project.

(i) A budget containing line items for project costs by expenditure category, including supplies and services, facilities and equipment, and personnel costs subdivided by number and type of employees and hourly wages.

(4) PUBLIC ACCESS TO APPLICATIONS. All grant applications are open to public inspection after the awarding of grants. The department may withhold access to any application or portion of an application containing information qualifying as a trade secret as defined in s. 134.90 (1) (c), Stats.

Note: Grant applicants must identify those portions of an application which contain a trade secret and claim the exemption from public inspection at the time of filing a grant application with the department.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.06 Grant application review and award determination. (1) REVIEW PERIOD. The department shall review each grant application submitted under this chapter. The department may require the applicant to provide additional information regarding the application as the department deems necessary. Within 90 days after the close of each application period, the department shall make its grant award decisions.

(2) AWARD CRITERIA. The department shall consider all of the following criteria in its review of grant applications:

(a) The extent to which the project will achieve one or more of the purposes in s. ATCP 161.03 (2).

(b) The viability of the proposed project.

(c) The perceived benefit of the project to agriculture or agribusiness.

(d) The management and technical qualifications of the applicant.

(e) The qualifications of the persons who will perform the work in carrying out the project.

(f) The financial capacity of the applicant to complete the project as proposed if the requested funding is granted.

(g) The adequacy of the project plan.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.07 Grant contracts. (1) CONTRACT REQUIRED. A successful grant applicant shall enter into a contract with the department before any grant money is distributed to the applicant. No funding commitment is final until the contract is executed.

(2) CONTRACT PROVISIONS. A grant contract shall be reasonably designed to ensure that the grant recipient carries out the recipient's obligations with respect to the grant. The contract shall be signed by an authorized department official and by the applicant. The parties may amend the contract by mutual written consent.

(3) BREACH OF CONTRACT. The department may void a contract and seek return of any funds released under the contract for failure by the award recipient to perform the recipient's obligations under the contract.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; CR 10-122: am. (2) Register July 2011 No. 667, eff. 8-1-11.

ATCP 161.08 Reporting. Every contract under s. ATCP 161.07 shall set forth a schedule of progress reports and payments. Grant payments shall be made in installments, according to the contract payment schedule. A grant recipient shall provide the department with periodic written progress reports throughout the life of the contract. Installment payments shall be conditioned upon the receipt of progress reports, as provided in the contract.

All financial and program reports become the property of the department and are open to public inspection.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.09 Program administration. The department shall solicit, evaluate, and approve grant applications; enter into contracts; authorize contract payments; monitor compliance with contractual obligations and project activities of grantees; receive and review progress reports submitted under s. ATCP 161.08; and prepare research findings for public dissemination.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

ATCP 161.10 Application materials. The department shall provide application materials upon request to any individual or organization who wishes to apply for a grant. The application materials shall include pertinent instructions, requirements, and procedures under this chapter.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91.

Subchapter II — “Something Special From Wisconsin” Program; Permit and User Fees

ATCP 161.20 Purpose. This subchapter regulates use of the department’s “Something Special from Wisconsin” logo and establishes a fee for its use under s. 93.44, Stats.

History: Cr. Register, March 1993, No. 447, eff. 4-1-93.

ATCP 161.21 Definitions. As used in this subchapter:

(1) “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

(2) “Gross sales” means a person’s total annual sales of all products and commodities, regardless of whether the logo was affixed to the products or commodities sold.

(3) “Logo” means the certification mark “Something Special from Wisconsin” registered in the U.S. patent and trademark office on March 7, 1989, under registration No. 1,529,098.

(4) “Packaging or labeling materials” means package labels, stickers, printed display materials, or similar items, featuring the logo, which are produced for sale to other persons, and which are designed to be used by other persons in connection with the sale or distribution of their products or commodities. “Packaging or labeling materials” does not include promotional items.

(5) “Person” means any individual, partnership, firm association, corporation, or other business or legal entity.

(6) “Product or commodity” means any article of commerce, including any product of agricultural or industrial production. “Product or commodity” does not include either of the following:

(a) Promotional items.

(b) Packaging or labeling materials.

(7) “Promotional item” means clothing, pins, pens, cups, mugs, and similar items featuring the logo. “Promotional item” does not include packaging or labeling materials.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.22 Permit required. No person may use the logo on any product or commodity, on any promotional item, or on any packaging or labeling materials without an annual permit from the department. An annual permit expires on June 30 of each year. A permit application filed on or before July 1, 1993, expires on June 30, 1994. To obtain a permit, a person shall submit an application under s. ATCP 161.23. The department may deny, suspend, or revoke a permit if the applicant or permit holder violates any provision of this chapter, fails to pay any required fee or royalty, or misrepresents any fact in a permit application.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.23 Permit application. (1) **GENERAL.** To obtain a permit under s. ATCP 161.22, a person shall submit a signed written application on a form provided by the department. The application shall include all of the information required under

this section. The application shall also be accompanied by the fees required under s. ATCP 161.24 if any.

Note: A permit application form may be obtained from the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, Marketing Division, P. O. Box 8911, Madison, WI 53708-8911.

(2) **NAME AND BUSINESS ADDRESS.** Every application shall include the applicant’s name and business address.

(3) **COMPLIANCE AGREEMENT.** Every application shall include a statement that the applicant agrees to comply with all applicable conditions under this subchapter for the use of the logo.

(4) **PRODUCTS OR COMMODITIES.** If the applicant intends to sell any product or commodity bearing the logo, the application shall include all of the following:

(a) An identification of the specific products or commodities on which the logo will be used.

(b) For each product or commodity identified under par. (a), information showing that the product or commodity complies with the eligibility requirements under s. ATCP 161.25.

(c) The applicant’s gross sales of all products and commodities during the applicant’s last complete fiscal year, for purposes of calculating the required fee under s. ATCP 161.25. This information is not required if the applicant is applying for a permit for the first time.

(5) **PROMOTIONAL ITEMS.** If the applicant intends to sell any promotional item bearing the logo, the application shall identify the specific promotional items on which the applicant intends to use the logo.

(6) **PACKAGING OR LABELING MATERIALS.** If the applicant intends to sell packaging or labeling materials bearing the logo, the application shall identify the packaging and labeling materials which the applicant intends to offer for sale.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93; am. (4) (b), Register, February, 1996, No. 482, eff. 3-1-96; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999.

ATCP 161.24 Annual permit fees. (1) **AMOUNT OF FEE.** Except as provided under sub. (2), if a person intends to sell any product, commodity, or promotional item bearing the logo, or sell or use any packaging or labeling materials bearing the logo, that person’s annual permit application under s. ATCP 161.23 shall include a fee based on the applicant’s gross sales during the last complete fiscal year. The amount of the fee is determined as follows:

(a) If the applicant’s gross annual sales are \$10,000 or less, the annual fee is \$10.00.

(b) If the applicant’s gross annual sales are more than \$10,000 but not more than \$50,000, the annual fee is \$35.00.

(c) If the applicant’s gross annual sales are more than \$50,000 but not more than \$100,000, the annual fee is \$50.00.

(d) If the applicant’s gross annual sales are more than \$100,000 but not more than \$250,000, the annual fee is \$100.

(e) If the applicant’s gross annual sales are more than \$250,000 but not more than \$500,000, the annual fee is \$150.

(f) If the applicant’s gross annual sales are more than \$500,000, the annual fee is \$200.

(2) **EXEMPTION.** The fee under sub. (1) does not apply to a person which is a tax exempt organization under the federal internal revenue code, 26 USC 501 (a).

(3) **FAILURE TO PAY.** The department may suspend or revoke a permit if the permit holder fails to pay annual user permit fees on a timely basis, and may bring an action to collect unpaid permit fees.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.25 Products and commodities; eligibility requirements. No person may use the logo on any product or commodity unless the product or commodity meets both of the following requirements:

(1) At least 50% of the product's or commodity's value—added is attributable to Wisconsin ingredients, or to Wisconsin production or processing activities.

(2) The product or commodity is not an imitation of a product or commodity for which there is a standard of identity established under state or federal law.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

ATCP 161.26 Prohibitions. No person may do any of the following without the department's written permission:

(1) Use the logo for a different purpose than that described in the person's permit application under s. ATCP 161.23.

(2) Affix the logo to any item other than those described in the person's permit application under s. ATCP 161.23.

(3) Alter the logo in any way.

History: Cr. Register, March, 1993, No. 447, eff. 4-1-93.

Subchapter IV — “Buy Local” Grant Program

ATCP 161.40 Purpose. This subchapter implements the “buy local” grant program created under s. 93.48, Stats.

History: EmR0804: cr. eff. 2-22-08; CR 08-038: cr. Register September 2008 No. 633, eff. 10-1-08.

ATCP 161.41 Definitions. In this subchapter:

(1) “Authorized department official” means the department secretary, deputy secretary, or assistant deputy secretary.

(2) “Department” means the Wisconsin department of agriculture, trade and consumer protection.

(3) “Direct Costs” means costs that can be identified specifically with a particular project, or that can be directly assigned to such activity relatively easily with a high degree of accuracy.

(4) “Food product” means an unprocessed commodity or processed product that is used for food or drink by humans. “Food product” includes a food product ingredient.

(5) “Grant applicant” means a person who submits a grant proposal under s. ATCP 161.44.

(6) “Individual” means a natural person.

(7) “Local purchaser” means a person who buys a Wisconsin food product at a retail location near the place where the food product is produced, or for resale at a retail location near the place where the food product is produced.

(8) “Person” means an individual, corporation, cooperative, partnership, limited liability company, trust, governmental entity, academic institution, or other legal entity.

(9) “Wisconsin food product” means a food product that is one of the following:

(a) Grown in this state.

(b) Produced from animals kept in this state.

(c) Primarily derived from food products that are grown in this state or produced from animals kept in this state.

History: EmR0804: cr. eff. 2-22-08; CR 08-038: cr. Register September 2008 No. 633, eff. 10-1-08; correction in (1) made under s. 13.92 (4) (b) 6., Stats., Register April 2015 No. 712.

ATCP 161.42 Grant program; general. (1) GRANT PURPOSES. The department may award grants under s. 93.48, Stats., for projects that are designed to increase the sale of Wisconsin food products to local purchasers. This may include grants for projects to create, expand, diversify, or promote any of the following:

(a) Local food marketing systems and market outlets.

(b) Local food and cultural tourism routes.

(c) Production, processing, marketing, and distribution of Wisconsin food products primarily for sale to local purchasers.

(2) GRANT PROPOSALS: EVALUATION. A grant award under sub. (1) shall be based on a grant proposal under s. ATCP 161.44. The department shall evaluate grant proposals according to s. ATCP 161.45.

(3) GRANT AWARDS. A grant award under sub. (1) shall be signed by an authorized department official. The grant award shall clearly identify the person to whom the grant is awarded, the amount awarded, and the purposes for which the grant is awarded. A grant award may not exceed \$50,000. The department may not award more than one grant to the same person in any state fiscal biennium.

(4) GRANT TERMS AND CONDITIONS. A grant is subject to the terms and conditions provided in s. ATCP 161.43 and the grant contract. The department may specify terms and conditions to ensure that grant funds are effectively used for the purposes awarded.

(5) GRANT CONTRACT. The department may not distribute any grant funds to the recipient of a grant award under sub. (1) until that recipient enters into a grant contract with the department. The contract shall comply with s. ATCP 161.46.

Note: Grant proposals, grant awards, grant contracts, progress reports, and other documents are open to public inspection to the extent provided by Wisconsin's open records law, subch. II of ch. 19, Stats.

History: EmR0804: cr. eff. 2-22-08; CR 08-038: cr. Register September 2008 No. 633, eff. 10-1-08.

ATCP 161.43 Grant terms and conditions. (1) USE OF GRANT FUNDS. Grant funds may be used to reimburse any of the following expenses if those expenses are a reasonable and necessary part of the grant project:

(a) Operating expenses, including expenses for salaries and wages, contract and consulting services, travel, supplies, and public information.

(b) Real estate and equipment rental.

(c) The purchase of equipment whose full value is ordinarily depreciable within one year.

(d) Reasonable depreciation expense incurred, for capital equipment, during the term of the grant contract.

(2) PROHIBITED USES OF GRANT FUNDS. Grant funds may not reimburse any of the following expenses:

(a) Real estate purchases.

(b) Repayment of loans or mortgages.

(c) Rent or contract payments for time periods extending beyond the term of the grant contract.

(d) Equipment purchases, except as specifically authorized in sub. (2) (c) and (d).

(e) Administrative or overhead costs that are not direct costs of the grant project.

(3) MATCHING CONTRIBUTIONS. The recipient of a grant award under s. ATCP 161.42 shall make a matching contribution to the grant project. The matching contribution shall be equal to at least the grant award. A matching contribution may include the reasonable value of the grant recipient's direct contribution of capital, land, labor, equipment or cash to the grant project. A matching contribution may include grant funds from sources other than the department.

(4) GRANT PAYMENTS. The department may distribute grant funds in one or more payments, based on documented progress toward completion of the grant project. The grant contract shall describe payment terms and conditions. The department may require a grant recipient to file progress reports and submit expense documentation as necessary to support grant payments.

History: EmR0804: cr. eff. 2-22-08; CR 08-038: cr. Register September 2008 No. 633, eff. 10-1-08; CR 14-047: am. (3) Register May 2015 No. 713, eff. 6-1-15.

ATCP 161.44 Grant proposals. (1) GENERAL. To obtain a grant under s. ATCP 161.42 (1), a person shall submit a grant proposal in response to a department request for grant proposals under sub. (2).

(2) REQUEST FOR PROPOSALS. (a) The department may, at any time, issue a request for grant proposals. The department shall issue a request for grant proposals at least once during every state fiscal biennium for which grant funding is appropriated. A

request for grant proposals shall be signed by an authorized department official and shall include all of the following:

1. A deadline date and address for submitting grant proposals.
2. Format and content requirements for grant proposals.
3. The name, business mailing address, business email address, and business telephone number of a department representative who can provide more information or answer questions about the request for grant proposals.
4. Other relevant terms and conditions that the department wishes to include.

(b) The department shall mail or email each request for grant proposals under par. (a) to persons who have registered with the department to receive that mailing. The department shall also issue a general news release announcing the request for grant proposals.

Note: Persons who wish to register for mailings under par. (b), or who wish to obtain a free copy of a request for grant proposals under par. (a), may contact the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
 “Buy Local” Grant Program
 P. O. Box 8911, Madison, WI 53718–8911
 Email: DATCPBLBW@wi.gov
 Telephone: (608) 224–5101

History: EmR0804: cr. eff. 2–22–08; CR 08–038: cr. Register September 2008 No. 633, eff. 10–1–08.

ATCP 161.45 Evaluating grant proposals. (1) EVALUATION PERIOD. The department shall evaluate grant proposals submitted under s. ATCP 161.44 (1), and shall announce its grant awards under s. ATCP 161.42 (1), within 90 days after the deadline date specified in s. ATCP 161.44 (2) (a) 1. The department may require a grant applicant to submit additional information, as necessary, to complete a grant proposal.

(2) EVALUATION CRITERIA. In its evaluation under sub. (1), the department shall consider all of the following criteria:

- (a) The extent to which a proposed project will increase local purchases of Wisconsin food products.
- (b) Whether the proposal complies with the department’s request for proposals under s. ATCP 161.44 (2).
- (c) Whether the proposed project complies with this subchapter.
- (d) The viability of the proposed project.
- (e) Additional project benefits for Wisconsin agriculture or tourism.
- (f) The management and technical qualifications of the grant applicant.
- (g) The qualifications of the persons who will carry out the project.
- (h) The financial capacity of the grant applicant to complete the project as proposed.
- (i) The adequacy of the project plan and budget.
- (j) Whether the grant proposal adequately identifies the nature of project expenses to be reimbursed under the proposed grant, consistent with s. ATCP 161.43 (1).

History: EmR0804: cr. eff. 2–22–08; CR 08–038: cr. Register September 2008 No. 633, eff. 10–1–08.

ATCP 161.46 Grant contracts. (1) CONTRACT SIGNING. A grant contract under s. ATCP 161.42 (5) may be signed by an authorized department official after the grant recipient signs the contract.

(2) CONTRACT PERIOD. A grant contract under s. ATCP 161.42 (5) takes effect when signed by an authorized department official under sub. (1). The original term of a contract may be for not more than 2 years, but may be extended for up to a third year upon request. The contract term may extend beyond the state fiscal biennium in which funds for the contract are appropriated, provided that the department encumbers those contract funds and signs the contract in that biennium.

(3) CONTRACT TERMS; GENERAL. A grant contract under s. ATCP 161.42 (5) is subject to the terms and conditions in s. ATCP 161.43, and other terms and conditions contained in the contract. A grant contract incorporates commitments made in the grant proposal, except as otherwise provided in the contract.

Note: DATCP will include, in every contract under s. ATCP 161.42 (5), general terms and conditions required in state contracts under state law. The department may include other terms and conditions that it considers necessary.

(4) PAYMENT TERMS. Every grant contract shall include payment terms and conditions, including a payment schedule if applicable.

Note: The department may distribute grant funds in one or more payments, based on documented progress toward completion of the grant project. The grant contract will describe payment terms and conditions. Payments are made on a reimbursement basis. The department may require a grant recipient to file progress reports and submit expense documentation as necessary to support grant payments. See s. ATCP 161.43 (4).

History: EmR0804: cr. eff. 2–22–08; CR 08–038: cr. Register September 2008 No. 633, eff. 10–1–08.

Subchapter V — Accountability Requirements

Note: This subchapter implements ss. 93.07 (18) (b) 6. and 7., Stats.

ATCP 161.50 Definitions. In this subchapter:

(1) “Department” means the department of agriculture, trade and consumer protection.

(2) “Economic development grant or loan” means a grant or loan awarded by the department pursuant to an economic development program.

(3) “Economic development program” has the meaning given in s. 93.07 (18) (a), Stats., and includes all of the following programs administered by the department:

(a) The agricultural diversification and development grant program under ss. 20.115 (4) (c) and 93.46, Stats.

Note: See also subchapter I of this chapter.

(b) The “buy local” grant program under ss. 20.115 (4) (am) and 93.48, Stats.

Note: See also subchapter IV of this chapter.

(c) The rural development loan program under ss. 20.115 (3) (h) and 93.06 (1qm), Stats.

Note: Paragraph (c) includes federally funded revolving loan programs for value-added agricultural enterprises.

(d) Agricultural development grant and loan programs for which the department is authorized to accept federal funds under ss. 20.115 (3) (m) and 16.54, Stats.

Note: Paragraph (d) includes the federally funded value-added dairy initiative.

(f) The grow Wisconsin dairy producer grant and loan program under ss. 20.115 (4) (d) and (dm) and 93.40 (1) (g), Stats.

(4) “Recipient” means a person who receives an economic development grant or loan.

(5) “Verified statement” means a written statement under s. ATCP 161.54 (1), signed by an independent certified public accountant licensed or certified under ch. 442 and by the director or principal officer of the recipient, in which the signers attest to the accuracy of the statement.

History: CR 10–120: cr. Register August 2011 No. 668, eff. 9–1–11; EmR1301: cr. (3) (f), eff. 2–1–13; CR 12–028: cr. (3) (f) Register May 2013 No. 689, eff. 6–1–13; correction in (3) (c) made under s. 13.92 (4) (b) 7., Stats., Register May 2013 No. 689; CR 14–026: am. (3) (f) Register April 2015 No. 712; correction in (1) made under s. 35.17, Stats., Register April 2015 No. 712; CR 19–054: r. (3) (e) Register March 2020 No. 771, eff. 4–1–20.

ATCP 161.52 Grant or loan contract; general. The department may not release any economic development grant or loan funds, except pursuant to a contract with the recipient. The contract shall do all of the following:

(1) Clearly identify the recipient, and the amount of the grant or loan.

(2) Set forth the terms and conditions of the grant or loan, including all of the following as appropriate:

(a) Actions required of the recipient, including contemplated uses of the grant or loan funds.

- (b) Matching funds, if any, required of the recipient.
- (c) Expected deliverables.
- (d) Repayment requirements, if any.
- (e) Documentation, reports, and accounting required of the recipient.
- (f) Penalties or remedies that the department may seek in the event of a contract breach. The specification of penalties or remedies under this paragraph does not prevent the department from pursuing any other remedy to which the department may otherwise be entitled by law.

History: CR 10-120: cr. Register August 2011 No. 668, eff. 9-1-11; correction in sub. (2) made under s. 13.92 (4) (b) 1., Stats., Register August 2011 No. 668.

ATCP 161.54 Large grants or loans; contract requirements. For each grant or loan of \$100,000 or more, the contract under s. ATCP 161.52 shall require the recipient to do all of the following:

- (1) Submit a verified statement accounting for the use of all grant or loan funds received. The verified statement shall include all of the following:
 - (a) The amount of funds received.
 - (b) A clear itemized description showing, by expenditure category, how all received funds were spent.
 - (c) The nature and amount of any matching funds provided by the recipient, and the recipient's use of those matching funds.
 - (d) Documentation of the deliverables provided by the recipient under the contract, and the dates on which the recipient provided those deliverables.

(2) Submit the verified statement under sub. (1) in a form required by the department, within a time period specified by the department.

(3) Make available to the department, upon request, evidence documenting the accuracy of the verified statement under sub. (1).

History: CR 10-120: cr. Register August 2011 No. 668, eff. 9-1-11.

ATCP 161.56 Penalties and remedies for false statement or contract breach. (1) In addition to any other penalties or remedies provided by law, a contract under s. ATCP 161.52 may provide for any of the following penalties or remedies if the grant or loan recipient submits false or misleading information to the department, or fails without reasonable justification to comply with the terms of the contract:

- (a) The department may demand and recover payments made under the contract.
- (b) The department may withhold payments to which the recipient would otherwise be entitled under the contract.
- (c) The department may demand and recover a forfeiture or other penalty specified in the contract. A recipient may not pay any forfeiture or penalty under this paragraph with funds received under another grant or loan from the department.
- (d) The department may disqualify the recipient from eligibility for future economic development grants or loans from the department.

History: CR 10-120: cr. Register August 2011 No. 668, eff. 9-1-11.

Subchapter VI — “Grow Wisconsin Dairy Producer” Grant and Loan Program

ATCP 161.60 Purpose. This subchapter implements the “grow Wisconsin dairy producer” grant and loan program created under ss. 20.115 (4) (d) and (dm) and 93.40 (1) (g), Stats.

History: EmR1301: emerg. cr., eff. 2-1-13; CR 12-028: cr. Register May 2013 No. 689, eff. 6-1-13; CR 14-026: am. Register April 2015 No. 712, eff. 5-1-15.

ATCP 161.61 Definitions. In this subchapter:

- (1) “Applicant” means a person who submits a grant or loan proposal under s. ATCP 161.64.
- (2) “Authorized department official” means the department secretary, deputy secretary, or assistant deputy secretary.

(3) “Dairy producer” means a licensed milk producer, licensed dairy plant, or other licensed entity that produces or processes milk.

(3m) “Dairy processing plant” has the meaning provided in s. 97.20 (1) (h), Stats.

(4) “Department” means the department of agriculture, trade and consumer protection.

(5) “Person” means an individual, corporation, cooperative, partnership, limited liability company, trust, governmental entity, academic institution, or other legal entity.

History: EmR1301: emerg. cr., eff. 2-1-13; CR 12-028: cr. Register May 2013 No. 689, eff. 6-1-13; CR 14-026: cr. (3m) Register April 2015 No. 712, eff. 5-1-15; correction in (2) made under s. 13.92 (4) (b) 6., Stats., and correction in (4) made under s. 35.17, Stats., Register April 2015 No. 712.

ATCP 161.62 Grant and loan program; general.

(1) GRANT AND LOAN PURPOSES. The department may award grants from the appropriation under s. 20.115 (4) (dm), Stats., for projects undertaken by dairy processing plants, and grants and loans from the appropriation under s. 20.115 (4) (d) under s. 93.40 (1) (g), Stats., for projects undertaken by dairy producers that are designed to do any of the following:

- (a) Increase production, profitability, processing, marketing, or distribution of Wisconsin dairy products.
- (b) Increase capital investment in the dairy industry.
- (c) Apply new technologies related to dairy production.
- (d) Improve the competitiveness of the Wisconsin dairy industry.
- (e) Make more efficient use of farmland and other agricultural resources for dairy production.
- (f) Create or retain jobs in the dairy industry.

(2) GRANT AND LOAN PROPOSALS; EVALUATION. A grant or loan award under sub. (1) shall be based on a grant proposal submitted under s. ATCP 161.64. The department shall evaluate grant and loan proposals according to s. ATCP 161.65.

(3) GRANT AND LOAN AWARDS. A grant or loan award under sub. (1) shall be signed by an authorized department official. The grant or loan award shall clearly identify the person to whom the grant or loan is awarded, the amount awarded, and the purposes for which the grant or loan is awarded. The department may not award more than \$50,000 in grant funding or more than \$200,000 in loans to the same person in any state fiscal biennium.

(4) GRANT AND LOAN TERMS AND CONDITIONS. Each grant and loan is subject to the terms and conditions provided in s. ATCP 161.63 and the grant or loan contract. The department may specify terms and conditions to ensure that grant and loan funds are effectively used for the purposes awarded.

(5) GRANT OR LOAN CONTRACT. The department may not distribute any grant or loan funds to the recipient of a grant or loan award under sub. (1) until that recipient enters into a contract with the department. The contract shall comply with s. ATCP 161.66.

Note: Grant and loan proposals, awards, contracts, progress reports, and other documents are open to public inspection to the extent provided by Wisconsin's open records law, subch. II of ch. 19, Stats.

(6) PROJECTS IN WISCONSIN. The department may only award a grant or loan under this subchapter for a project conducted in this state.

History: EmR1301: emerg. cr., eff. 2-1-13; CR 12-028: cr. Register May 2013 No. 689, eff. 6-1-13; CR 14-026: am. (1) (intro.) Register April 2015 No. 712, eff. 5-1-15.

ATCP 161.63 Grant and loan terms and conditions.

(1) USE OF GRANT FUNDS. Permitted uses of grant funds for expenses that are a reasonable and necessary part of the grant project include any of the following:

- (a) Operating expenses, including expenses for salaries and wages, contract and consulting services, travel, supplies, and public information.
- (b) Equipment rental.

(2) PROHIBITED USES OF GRANT FUNDS. Grant funds may not be used for any of the following:

- (a) Capital acquisition.
- (b) Administrative or overhead expenses not directly related to the grant project.
- (c) Repayment of loans or mortgages.

(3) USE OF LOAN FUNDS. Permitted uses of loan funds for expenses that are a reasonable and necessary part of the loan project include any of the following:

- (a) Operating expenses, including expenses for salaries and wages, contract and consulting services, travel, supplies, and public information.
- (b) Equipment purchase or lease.
- (c) Land and building acquisitions.

(4) PROHIBITED USES OF LOAN FUNDS. Loan funds may not be used for repayment of loans or mortgages.

History: EmR1301: emerg. cr., eff. 2-1-13; CR 12-028: cr. Register May 2013 No. 689, eff. 6-1-13.

ATCP 161.64 Grant and loan proposals. (1) GENERAL. To obtain a grant or loan under s. ATCP 161.62 (1), a person shall submit a grant or loan proposal in response to a department request for grant proposals under sub. (2).

(2) REQUEST FOR PROPOSALS. (a) The department may, at any time, issue a request for grant and loan proposals. The department shall issue a request for grant and loan proposals at least once during every state fiscal biennium. A request for grant and loan proposals shall be signed by an authorized department official and shall include all of the following:

1. A deadline date and address for submitting proposals.
2. Format and content requirements for proposals.
3. The name, business mailing address, business email address, and business telephone number of a department representative who can provide more information or answer questions about the request for proposals.
4. Other relevant terms and conditions that the department wishes to include.

(b) The department shall issue a general news release announcing each request for grant and loan proposals.

Note: Persons who wish to obtain a free copy of a request for grant and loan proposals may contact the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
 "Grow Wisconsin Dairy Producer" Grant and Loan Program
 P. O. Box 8911, Madison, WI 53718-8911
 Email: GrowWisconsinDairy@wi.gov
 Telephone: (855) 943-2479

History: EmR1301: emerg. cr., eff. 2-1-13; CR 12-028: cr. Register May 2013 No. 689, eff. 6-1-13.

ATCP 161.65 Evaluating grant proposals. (1) EVALUATION PERIOD. The department shall evaluate grant and loan proposals submitted under this subchapter and shall announce grant

and loan awards within 90 days after the deadline for submission of proposals specified in the applicable request for proposals. The department may require applicants to submit additional information, as necessary, to complete a grant or loan proposal.

(2) EVALUATION CRITERIA. In its evaluation under sub. (1), the department shall consider all of the following criteria:

- (a) Whether the proposal complies with the department request for proposals.
- (b) Whether the proposed project complies with this subchapter.
- (c) The viability of the proposed project.
- (d) The management and technical qualifications of the applicant.
- (e) The qualifications of the persons who will carry out the project.
- (f) The financial capacity of the applicant to complete the project as proposed.
- (g) The adequacy of the project plan and budget.
- (h) Whether the proposal adequately identifies project expenses including those expenses paid for with grant or loan funds.
- (i) The benefit of the project to the dairy industry.

(3) MATCHING CONTRIBUTION. The department may give preference to applicants providing matching funds which may be in the form of capital, land, labor, equipment, or cash related to the grant or loan project.

History: EmR1301: emerg. cr., eff. 2-1-13; CR 12-028: cr. Register May 2013 No. 689, eff. 6-1-13.

ATCP 161.66 Grant and loan contracts. (1) CONTRACT REQUIRED. A successful grant and loan applicant shall enter into a contract with the department before any funds are distributed to the applicant. No funding commitment is final until a contract is executed.

(2) CONTRACT PROVISIONS. Each grant and loan contract shall be signed by an authorized representative of the department and the applicant, and shall include provisions to ensure that the grant or loan recipient complies with the provisions of this subchapter, uses grant or loan funds according to its approved proposal, and otherwise meets its obligations to carry out the project in its approved proposal.

(3) CONTRACT PERIOD. A contract under this section takes effect when signed by an authorized representative of the department. The original term of a grant contract may not be for more than 3 years. The original term of a loan contract may not be for more than 7 years.

(4) PAYMENT TERMS. Every grant and loan contract shall include payment terms and conditions, including a payment schedule if applicable.

History: EmR1301: emerg. cr., eff. 2-1-13; CR 12-028: cr. Register May 2013 No. 689, eff. 6-1-13.