

## Chapter Trans 404

### GUARANTEE OF MOBILIZATION LOANS FOR DISADVANTAGED BUSINESSES

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**Trans 404.01 Purpose and scope.** As authorized by s. 85.25 (4), Stats., as created by 1987 Wisconsin Act 399, the purpose of this chapter is to establish a program to assist disadvantaged businesses in obtaining working capital in order to participate in construction contracts with the department of transportation.

**History:** Cr. Register, December, 1988, No. 396, eff. 1-1-89.

**Trans 404.02 Definitions.** The definitions in s. 85.25 (2), Stats., apply to this chapter. In addition, in this chapter, “department” means the department of transportation and “year” means 365 consecutive days.

**History:** Cr. Register, December, 1988, No. 396, eff. 1-1-89.

**Trans 404.03 Selection of business development organization.** The department may make grants to a business development organization in order to provide funding for the guarantee of a mobilization loan provided that the business development organization:

- (1) Is the Wisconsin housing and economic development authority; or
- (2) Is a non-profit corporation; and
  - (a) Has a minimum of 5 years experience developing business and loan plans for small businesses; and
  - (b) Has a minimum of 5 years experience providing management and technical assistance to small businesses; and
  - (c) Has demonstrated a commitment to securing financing for minority and women-owned businesses; and
  - (d) Has demonstrated a commitment from other lending institutions to participate in the program.
- (3) Any business development organization selected by the department shall allow the department to audit at any time the monies conveyed to the organization for the operation of the program and individual loans guaranteed under this chapter.
- (4) Any business development organization selected by the department shall enter into a written agreement with the department.

**History:** Cr. Register, December, 1988, No. 396, eff. 1-1-89.

**Trans 404.04 Conditions for eligibility of a disadvantaged business for a guaranteed loan.** (1) Any business applying for a guaranteed loan must be certified as a disadvantaged business by the department; and

(2) Any business applying for a guaranteed loan must have a current contract with the department or a current sub-contract for work let by the department; and

(3) Any business applying for a guaranteed loan must have a demonstrated ability to perform the work of the contract or sub-contract.

**History:** Cr. Register, December, 1988, No. 396, eff. 1-1-89.

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**Trans 404.05 Conditions for the guarantee of a mobilization loan by a business development organization.** (1) The total loan qualifies as a mobilization loan.

(2) The total of the principal amounts of all loans extended to the borrower during a single year may not exceed 100% of the contract amount.

(3) The rate of interest on the loan, including any origination fees or other charges relating to the loan, may not exceed a rate to be determined by the business development organization.

(4) Upon completion of a contract with the department, the proceeds shall be co-paid to the lender and the disadvantaged business by the department. If the disadvantaged business is a subcontractor, the prime contractor shall co-pay the disadvantaged business and the lender.

(5) The term of the loan shall be for a maximum of 6 months. If requested, an extension shall be considered on a case-by-case basis.

(6) The proceeds of the loan shall only be used for new contract work with the department. Refinancings of prior contract work with the department are not eligible. Loans to any disadvantaged business may not exceed a total of \$250,000 within a 180-day period.

(7) The business development organization shall guarantee repayment up to 90% of the principal of any mobilization loan eligible for guarantee. Any origination fees or other charges related to the loan can be financed; however, they may not be guaranteed by the business development organization.

(8) The participating lender obtains a security interest in any machinery and equipment resulting from the use of the loan proceeds and an assignment of the contract proceeds from the department and the prime contractor for repayment of the loan.

(9) (a) A participating lender shall determine when a guaranteed loan is in default, except that any guaranteed loan not repaid in 6 months (or at the end of a specified extension) following the origination of the loan is in default. Upon default, if there is any deficiency remaining after the participating lender has enforced to the fullest extent possible the security interest taken in any machinery and equipment purchased with the loan proceeds and has collected any proceeds due from the department or the prime contractor, the participating lender may notify the business development organization.

(b) Not more than 60 days after accepting notice of enforcement and deficiency under par. (a), the business development organization shall pay to a participating lender, from the disadvantaged business mobilization loan program fund, the amount of the deficiency.

(c) Neither the department nor the business development organization shall be responsible for reimbursing the lender for any expenses incurred during the collection of any defaulted payments.

**(10)** (a) The business development organization shall enter into a guarantee agreement with any bank, credit union, savings and loan association, or other person who makes mobilization loans and who wishes to have those loans guaranteed under this section. The business development organization may determine all of the following, consistent with this section:

1. The form of the agreement.
2. Any conditions upon which the business development organization may refuse to enter into such agreement.
3. Any procedures required to carry out the agreement.

(b) The business development organization may not use any monies other than those in the disadvantaged business mobilization assistance program to guarantee a mobilization loan under this section.

**(11)** (a) The business development organization will submit a report annually to the department summarizing the status of the program.

(b) The total principal amount of all mobilization loans which may be guaranteed by the business development organization at one time cannot exceed \$1,500,000.

(c) The business development organization shall cease to guarantee any mobilization loans when the amount of unexpended funds in the disadvantaged business mobilization assistance program is equal to or less than \$100,000.

(d) The business development organization shall cease to guarantee mobilization loans at the request of the department. The business development organization shall transfer the balance of any unexpended funds in the program fund to the department 30 days after payment in full of the last loan.

**(12)** The business development organization shall maintain the record of each loan for a period of at least 3 years from the date of final payment.

**History:** Cr. Register, December, 1988, No. 396, eff. 1-1-89.