

Publication Date: July 2, 2010
Effective Dates: July 2, 2010 through November 28, 2010

**ORDER OF THE DEPARTMENT OF COMMERCE
EMERGENCY RULE RELATING TO RURAL OUTSOURCING GRANTS**

Exemption From Finding of Emergency

The Legislature, by SECTION 45 (1) (b) of 2009 Wisconsin Act 265, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Pursuant to section 227.24 of the Statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Legislative Reference Bureau.

The Wisconsin Department of Commerce adopts an order to create chapter Comm 139 relating to rural outsourcing grants, and affecting small businesses.

Analysis of Rules

1. Statutes Interpreted.

SECTION 45 (1) in 2009 Wisconsin Act 265.

2. Statutory Authority.

Section 227.11 (2) (a) of the Statutes and SECTION 45 (1) (b) in 2009 Wisconsin Act 265.

3. Explanation of Agency Authority.

SECTION 45 (1) (b) in 2009 Wisconsin Act 265 requires the Department to promulgate rules for awarding the rural outsourcing grants established in SECTION 45 (1). Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

4. Related Statute or Rule.

The Department has rules for several other programs associated with economic and business development grants, but those programs are not targeted specifically to grants to businesses for outsourcing work to rural municipalities.

5. Summary of Rule.

The rules in this order address (1) the eligibility requirements for applicants and projects; (2) the documentation that must be submitted by applicants; (3) the Department's response to the submitted documentation; and (4) the Department's use of any funds that are not applied for by the end of the 2009-11 fiscal biennium.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

No similar existing or proposed federal regulations or programs were found through review of the Code of Federal Regulations and pertinent federal agency Web sites – including at the US Department of Agriculture, the US Department of Commerce, the US Economic Development Administration, and the US Small Business Administration.

7. Comparison With Rules in Adjacent States.

Review of existing rules and programs in adjacent States and review of proposed state legislation through the National Conference of State Legislatures did not reveal any similar rules or programs in the adjacent States.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of (1) incorporating the applicable criteria in SECTION 45 in 2009 Wisconsin Act 265; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic and business development, and (3) reviewing Internet-based sources of related federal, state, and private-sector information.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary documentation that was used to determine the effect of the rules on small business was SECTION 45 (1) in 2009 Wisconsin Act 265. This SECTION authorizes the Department to award grants to businesses for outsourcing work to rural municipalities and requires the Department to promulgate rules for administering the program. This SECTION applies its private-sector requirements only to businesses that chose to apply for the grants.

10. Effect on Small Business.

The rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by applicants that choose to pursue grants for outsourcing work to rural municipalities.

11. Agency Contact Person.

Mary Gage, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 266-2766; e-mail Mary. Gage@Wisconsin.gov.

TEXT OF RULE:

SECTION 1. Chapter Comm 139 is created to read:

CHAPTER Comm 139 RURAL OUTSOURCING GRANTS

Comm 139.10 Authority and purpose. The purpose of this chapter is to set forth the criteria the department will use to administer the rural outsourcing grants established under SECTION 45 (1) of 2009 Wisconsin Act 265.

Comm 139.20 Definitions. In this chapter:

- (1) "Department" means the department of commerce.
- (2) "Eligible business" means a for-profit company that at the time of application to the department outsources work to outside of this state but will be shifting that work to a business operation or facility located in a rural municipality in this state.
- (3) "Eligible uses" means costs incurred by an eligible business to transfer the outsourced work to an operation in a rural municipality.
- (4) "Rural municipality" means any of the following:
 - (a) A city, town or village that is located in a county with a population density of less than 150 persons per square mile.
 - (b) A city, town or village with a population of 6,000 or less.

Comm 139.30 Outsourcing Grants. (1) The department may award grants from the appropriation under s. 20.143 (1) (cp), Stats., only to the extent the unencumbered balances of the appropriations under ss. 20.143 (1) (ie), (ig),

(im), and (ir), Stats., are insufficient to fund the grant. The total amount of grants under this chapter may not exceed \$500,000.

(2) (a) The department may award a grant to an eligible business for a project that shifts work from being performed outside of this state, to instead be performed in a rural municipality.

(b) The grant funds may be used only for the following capital or operating expenses incurred in establishing, equipping, or maintaining a facility for the work in the rural municipality:

1. Facility-related costs.
2. Equipment purchases.
3. Employee training costs.
4. Other expenditures deemed by the department to be related to the project.

(3) Prior to receiving a grant, an eligible business shall demonstrate that it will provide a match of at least 50% from sources other than the department. Eligible match sources include costs related to the project that the business has incurred or will incur for any of the following:

- (a) Capital expenditures.
- (b) Family supporting wages.
- (c) Rent or other facility costs.
- (d) Electricity costs.
- (e) Equipment leases.
- (f) Software expenses.

(4) In addition to submitting the demonstration information in sub. (3), the applicant shall submit information enabling the department to consider the factors addressed in subs. (2) (b) and (5) (b).

(5) (a) Due to the \$500,000 maximum available under this program for awards during the 2009-2011 fiscal biennium, the department may allocate the grant funds in a manner that the department believes is most likely to promote economic development.

(b) In determining the allocation of grant funds under par. (a), the department shall consider all of the following:

1. The jobs created by the project.
2. The salaries, wages and other employee benefits of the jobs created by the project.
3. The impact of the project on the rural municipality.
4. The extent to which the area served by the project is economically distressed.
5. The amount of new, eligible capital investment in the project.
6. The impact of the project on business in Wisconsin.
7. Any previous assistance from the department.

Comm 139.40 Remaining allocation. If after the first day of the 12th month beginning after the effective date of the rules the department has not received completed applications and made awards totaling \$500,000, the department may use the remaining funds, but not more than \$250,000, for other eligible uses under s. 20.143 (1) (c), Stats.

Note: See chapter Comm 149 for additional requirements relating to (1) contracts between the Department and recipients of economic-development grants and (2) penalties for submitting false or misleading information.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper.