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Chapter Trans 512

TRANSPORTATION INFRASTRUCTURE LOAN PROGRAM

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Note: Chapter Trans 512 was created as an emergency rule effective January 5, 1998.

Trans 512.01 Purpose and scope. (1) The purpose of this chapter is to establish a procedure for the administration of the transportation infrastructure loan program as provided in s. 85.52, Stats.

(2) The objective of the transportation infrastructure loan program is to establish a revolving loan fund, loan guarantees, interest rate subsidies, lease buy-back options and other financial leveraging instruments to assist communities in providing for transportation infrastructure and capital improvements to preserve, promote and encourage economic development, or to improve and promote local and regional transportation efficiencies and mobility for Wisconsin communities.

(3) The department shall create within the transportation infrastructure bank a separate account to be designated as the highway account and a separate account to be designated as the transit account, each of which shall be designated solely to providing loans and other forms of financial assistance consistent with the national highway system designation act of 1995, P.L. 104-59 and s. 85.52, Stats.

History: Cr. Register, June, 1998, No. 510, eff. 7-1-98.

Trans 512.02 Definitions. The words and phrases defined in ss. 85.52 and 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Economic development" means any of the following:

- (a) Retention or creation of jobs in the state.
- (b) Significant capital investment.

(c) Increased competitiveness of a Wisconsin business leading to increased sales or profits and significant contribution to the economy of this state.

(2) "Eligible applicant" means a county, city, village or town, Amtrak, as defined in s. 85.061 (1), Stats., a railroad as defined in s. 85.01 (5), Stats., a private nonprofit organization that is an eligible applicant under s. 85.22 (2) (am), Stats., or a transit commission created under s. 59.58 (2) or 66.1021, Stats.

(3) "Mobility" means the efficient movement of people and commodities by various transportation and carrier modes.

(4) "Project" means a state infrastructure bank project eligible under s. 85.52, Stats., and P.L. 104-59 section 350, 109 Stat. 618-622.

(5) "Transportation efficiency" means an infrastructure or mobility improvement which does any of the following:

- (a) Increases traffic mobility.
- (b) Reduces traffic congestion.
- (c) Reduces travel time.
- (d) Reduces travel distance.
- (e) Improves accessibility.
- (f) Increases traffic circulation.
- (g) Improves geometrics.
- (h) Improves comfort and rideability of travelers.

(i) Increases mobility for elderly and disabled persons as defined in s. 85.22 (2), Stats.

(j) Improves safety.

(k) Improves air quality.

History: Cr. Register, June, 1998, No. 510, eff. 7-1-98; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register November 2009 No. 647.

Trans 512.03 Application procedure. Eligible applicants under this chapter may make application to the department at any time for funding. Application and funding cycles shall be established and publicly announced by the department. An application under this chapter shall be in a form as the department may require.

Note: Applicants may obtain an application and program packet by contacting Dennis Leong, Chief, Bureau of Planning, Economic Planning and Development Section, P. O. Box 7913, Room 901, Madison, WI 53707-7913.

History: Cr. Register, June, 1998, No. 510, eff. 7-1-98.

Trans 512.04 Screening criteria. Applications that meet the following screening criteria shall be evaluated for funding eligibility:

(1) Whether the applicant is eligible.

(2) Whether the project is eligible under P.L. 104-59 section 350, 109 Stat. 618-622.

(3) Whether the applicant has the committed financial resources to complete the project.

(4) Whether the project will be for a public purpose.

(5) Whether the applicant certifies that funds from a loan under this chapter may not be used to pay overhead costs, replace funds from another source or refinance an existing debt.

History: Cr. Register, June, 1998, No. 510, eff. 7-1-98.

Trans 512.05 Evaluation criteria. The department shall evaluate and rank the applications that are eligible for funding according to the following criteria:

(1) Whether the project represents a prudent and productive investment of public funds.

(2) The extent to which the project furthers economic development.

(3) Whether the project is compatible and complementary to other intermodal transportation facilities.

(4) Whether the project improves transportation efficiency and mobility.

(5) Whether the project accelerates the completion of a major highway project under s. 84.013, Stats.

(6) The degree to which the loan leverages other financial resources.

(7) Whether the project can be completed in a timely manner.

(8) The financial viability of the project.

(9) The security of any repayment stream.

History: Cr. Register, June, 1998, No. 510, eff. 7-1-98.

Trans 512.06 Agreements. (1) Successful applicants shall be required to enter into a negotiated agreement with the department. The agreement shall be signed by the secretary or his or her designee and an authorized representative of the eligible applicant. Loan repayments shall commence no later than 5 years

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after completion of the project. The duration of the loan may not exceed 30 years. The department shall charge interest at market rates, as determined by the department, to make the project that is the subject of the loan feasible, except when the applicant satisfies the secretary that interest would represent an undue hardship for the applicant.

(2) For agreements entered into by recipients of a loan of at least \$100,000, a verified statement shall be submitted to the department that shall include the following:

(a) A reporting of the number of jobs associated with the grant or loan and other performance measures as required by the department. The department may determine the format, content and frequency of the verified statement, and may require that the verified statement include wage reports or similar documents filed with the department of workforce development.

(b) Signature by both an independent certified public accountant licensed or certified under ch. 442, Stats., and the director or principal officer of the recipient to attest to the accuracy of the verified statement. The recipient shall make available for inspection the documents supporting the verified statement.

(3) If the applicant submits false or misleading information to the department, or fails to comply with the terms of the contract entered into with the department and fails to provide to the satisfaction of the department an explanation for the noncompliance, then the department may do any of the following:

- (a) Recoup payments made to the recipient.
- (b) Withhold payments to be made to the recipient.
- (c) Impose a forfeiture on the recipient pursuant to the following:

1. The department shall use its discretion in determining the amount of the forfeiture, with consideration given to the integrity and responsibility of the recipient and the effect that the recipient's actions had on the public. Under no circumstances shall the forfeiture exceed 50% of the grant or loan. General transportation aids or other monies payable to the applicant may be withheld in the amount of the forfeiture.

2. The recipient may submit information and arguments in opposition to a proposed forfeiture and request an informal meeting with the department. If the department determines that the recipient's opposition raises a genuine dispute over facts relevant to the proposed forfeiture, it will designate a hearing examiner and conduct a fact-finding hearing where the recipient may appear with counsel, present witnesses, and confront and cross-examine any person the department presents. The department's decision to impose a forfeiture shall be made based upon the information in the administrative record or, if a fact-finding hearing was conducted, the written findings of fact prepared by the department's designated hearing examiner.

3. Until the forfeiture is paid in full, the department may consider the recipient ineligible for any further grants or loans under chs. Trans 510 and 512.

History: Cr. Register, June, 1998, No. 510, eff. 7-1-98; CR 09-049; renum. to be (1), cr. (2) and (3) Register November 2009 No. 647, eff. 12-1-09.

Trans 512.07 Reporting. Each agreement shall include a periodic requirement to report on economic development, transportation efficiency, mobility, and other benefits as determined by the department. The report shall be prepared by the loan recipient.

History: Cr. Register, June, 1998, No. 510, eff. 7-1-98.