

MEMORANDUM

DATE: November 12, 2004

TO: Jamie Wall, Administrator
Division of Business Development

FROM: Landon T. Williams
Budget and Policy Analyst

SUBJECT: DEPARTMENTAL PROGRAMS TRIBAL ENTITIES ARE ELIGIBLE TO APPLY FOR

This memo is in response to a request made to Louie Cornelius regarding a tribal government's eligibility to apply for assistance under various economic development programs administered by the Department. The programs identified below were identified as a result of discussions between representatives of Commerce, Department of Administration and the St. Croix tribal government. As I conducted my research, I assumed that the tribal government would be the applicant for these programs, and I also assumed that any project proposed would fit under the criteria established for these programs.

Under the MED, CBED and Brownfields programs, Tribal Governments are eligible pursuant to s. 20.002 (13), WI State Statutes which authorizes the Department to award state-funded grants or loans to a tribal government if the existing statutory language governing those programs allows a unit of local government to apply for funding.

Tribal Entity defined for the purpose of eligibility: A federally recognized tribe, applying as a governing body.

1. Wisconsin Development Fund

A. Major Economic Development Program:

Purpose: To fund projects that are not eligible for funding under the criteria of any other WDF program and that involve significant capital investment and the creation or retention of a significant number of jobs.

- Yes, a Tribal Entity qualifies under s. 560.60 (4), WI State Statutes, the definition of eligible recipient. Under 20.002 (13) the Department may award a grant or loan to a Tribal Entity if the statutes say that an award may be granted to a governing body.
- A Tribal Entity would also be eligible if:
 - A "business" owned or controlled by a Tribal Entity may apply for a grant or loan under the MED program. A "business" is defined as: a company located in this state, a company which

has made a firm commitment to locate a facility in this state or a group of companies at least 80% of which are located in this state.

- However, to be eligible, the project must meet certain criteria including any of the following:
 - Necessary to retain a significant number of jobs in a political subdivision.
 - Necessary to create a significant number of jobs in a political subdivision.
 - Will lead to significant capital investment in this state by a business.
 - Will make a significant contribution to the economy of the state.

B. Revolving Loan Fund Capitalization:

Purpose: To fund local revolving loan funds used to promote local and regional economic development.

- Yes, a Tribal Entity would qualify under s. 560.145, WI State Statutes.

2. Minority Business Development Program:

Purpose: This program provides entrepreneurial assistance, working capital, worker training and establishes local revolving loan funds.

- Yes. A Tribal Entity would be eligible for all programs under s. 560.80 (7) (a) and (b) WI State Statutes if:
 - The Tribal Entity applies as the elected governing body of a federally recognized American Indian tribe or band,
 - Or, as any business created by the elected governing body.
 - Or to members of the Tribal Entity.

3. Community Based Economic Development Program:

Purpose: Provides assistance to community-based organizations to foster economic development through providing planning and entrepreneurial assistance, capital financing and establishing revolving loan funds.

- Yes, a Tribal Entity qualifies under s. 560.14 (1) (f), WI State Statutes, the definition of political subdivision. Under 20.002 (13) the Department may award a grant or loan to a Tribal Entity if the statutes say that an award may be granted to a governing body.
- The Tribal Entity would also be eligible to apply if an organization created by a Tribal Entity applies as a “Community-based organization” defined under s. 560.14 (1) (c) WI State Statutes. This statutory section defines an organization that is involved in economic development and helps businesses that are likely to employ persons.

4. Development Zone Program:

Purpose: To alleviate economic distress associated with high unemployment or low median incomes.

- Two zones were established to encompass the Stockbridge-Munsee and Lac du Flambeau Indian reservations. Initially, these zones were highly effective due to refundability of tax credits. However, the program was subsequently modified to eliminate the refundability of these tax credits thus reducing the effectiveness of the program due to the lack of a tax liability experienced by most businesses located in these zones.
- The Department has allocated all zones allowed under law, with a small remaining balance of available tax credits. Eligible businesses located in these two zones that have a tax liability with the state would be eligible to apply for credits.

5. Brownfields Grant Program:

Purpose: To provide financial assistance to groups that conduct brownfield redevelopment and related environmental remediation activities.

- Yes, a Tribal Entity would qualify under s. 560.13 (1) (g) WI State Statutes, the definition of person. Under 20.002 (13) the Department may award a grant or loan to a Tribal Entity if the statutes say that an award may be granted to a governing body.
 - A Tribal Entity would also be eligible:
- If an individual, partnership, LLC, corporation or nonprofit organization applies on behalf of a Tribal Entity.