

Wisconsin Department of Veterans Affairs

Policy Bulletin: WDVA May Award Transportation Services Grants to Tribal Governments

Date of Origin: September 27, 2023	Policy Bulletin No.: 23-104
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Last Review: September 27, 2023	Maintained By: Office of Legal Counsel
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I. Policy Statement:

State law authorizes the Wisconsin Department of Veterans Affairs (WDVA) to award transportation services grants to federally recognized Indian tribes or bands (Tribes).ⁱ A Tribe awarded this grant must comply with all the requirements of these grants contained in Wis. Stat. §45.83 and Wis. Admin. Code VA §16, similar to counties awarded this same grant.

II. Purpose:

The purpose of this Policy Bulletin is to provide guidance on whether Tribes qualify as potential recipients of the transportation services grants.

III. Related Bulletins:

This Policy Bulletin supersedes any previous WDVA legal opinions or internal procedures relating to whether WDVA has the authority to award a transportation services grant to Tribes authorized by Wis. Stat. §45.83.

IV. Issue:

Wisconsin Stat. §45.83 authorizes WDVA to award transportation services grants to develop, maintain, and expand transportation services to veterans. Wisconsin Stat. §45.83 and Wis. Admin. Code VA §16 specifically reference that only counties are eligible for these grants. Tribes may also provide these transportation services to veterans. Does the law authorize WDVA to provide these transportation services grants to Tribes under the same conditions and terms?

V. Background and Legal Rationale:

Wisconsin Stat. §45.83 authorizes WDVA to award transportation service grants to develop, maintain, and expand transportation services to veterans.ⁱⁱ Wisconsin Stat. §45.83(1) requires WDVA to award the grants “to counties”. This would seem to preclude WDVA from awarding this grant to a Tribe.

However, Wis. Stat. §20.002(13) provides that if a statute authorizes a state agency to grant state funds to a county, the state agency may also award those funds to a Tribe:

(13) INDIAN GRANTS. *Notwithstanding any statute to the contrary, wherever any law authorizes a grant of state funds to be made by a state*

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agency to any county, city, village or town for any purpose, funds may also be granted by that state agency to any federally recognized tribal governing body for the same purpose. The grants are subject to the same conditions and restrictions as apply to grants to counties and municipalities, if any. This subsection shall not be construed to require any grant of state funds to be made to any federally recognized tribal governing body.ⁱⁱⁱ

Therefore, state law authorizes WDVA to award a transportation services grant to a Tribe.

However, Wis. Admin. Code VA §16.01(1) provides that an “[a]pplicant” means a Wisconsin county or 2 or more counties together that request a transportation services grant by filing an application with the department.” Yet, an administrative code provision may not conflict with state law.^{iv}

The statute authorizes WDVA to award a transportation services grant to a Tribe that complies with the same requirements applicable to a county.^v

VI. Determination:

WDVA has the authority to award to Tribes the transportation services grant, pursuant to Wis. Stat. §45.83.

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VII. Endnotes:

ⁱ For this Policy Bulletin, reference to Tribes refers to all eleven of the federally recognized tribes and bands in Wisconsin: Bad River Band of Lake Superior Chippewa, Ho-Chunk Nation, Lac Courte Oreilles Band of Lake Superior Chippewa, Lac du Flambeau Band of Lake Superior Chippewa, Menominee Tribe of Wisconsin, Oneida Nation, Forest County Potawatomi, Red Cliff Band of Lake Superior Chippewa, St. Croix Chippewa, Sokaogon Chippewa (Mole Lake), and Stockbridge-Munsee.

ⁱⁱ [Wis. Stat. §45.83](#). Wisconsin Stat. §45.83 in full provides:

- (1) Annually, from the appropriation under s. 20.485 (2) (s), the department shall award grants to counties that are not served by transportation services provided by the Wisconsin department of Disabled American Veterans to develop, maintain, and expand transportation services for veterans. The grants may be used to support multicounty cooperative transportation services.
- (2) The department shall promulgate rules specifying the application procedures and eligibility criteria for grants under this section.
- (3) A county may not reduce funding to a county veterans service office based upon receipt of a grant.

ⁱⁱⁱ [Wis. Stat. §20.002\(13\)](#).

^{iv} [Wis. Stat. §227.10\(2\)](#).

^v There are several limitations placed on this grant funding. First, the Wisconsin department of Disabled American Veterans cannot provide transportation services to veterans of the county or Tribe. *See* Wis. Stat. §45.83(1); *see also*, [Wis. Admin. Code VA §16.02\(2\)\(a\)](#). Second, the county or Tribe must use the funding to develop, maintain, and expand transportation services to veterans. *See* Wis. Stat. §45.83(1); *see also*, Wis. Admin. Code VA §16.02(2)(c). Further, the county or Tribe must use the grant funding to provide transportation services to veterans to medical appointments arranged or conducted by the U.S. Department of Veterans Affairs during the calendar year for which WDVA pays the grant. *See* Wis. Admin. Code VA §16.02(2)(b). Next, a county or Tribe may not use any of the grant funding to fund a department of the county or Tribe for a purpose that is not an integral part of its transportation services delivery system or reduce funding to a county or tribal veterans service office. *See id.* at (d). Finally, the county or Tribe must agree to cooperate in any review and audit of grant expenditures. *See* [Wis. Stat. §45.47\(2\)](#); *see also*, Wis. Admin. Code VA §16.02(2)(e).