

Dear Senators ANDREASON, McKague, Stennett, and
Representatives BLOCK, Hartgen, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Commerce:

IDAPA 28.02.06 - Rules Pertaining To The Idaho Small Business Federal Funding Assistance Act
Rules (New Chapter) (Docket No. 28-0206-1201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 06/22/2012. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 07/23/2012.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee
FROM: Principal Legislative Research Analyst - Eric Milstead
DATE: June 05, 2012
SUBJECT: Department of Commerce

IDAPA 28.02.06 - Rules Pertaining To The Idaho Small Business Federal Funding Assistance Act Rules (New Chapter) (Docket No. 28-0206-1201)

The Department of Commerce submits notice of temporary and proposed rulemaking at IDAPA 28.02.06 -- Rules of the Idaho Small Business Federal Funding Assistance Act. The temporary and proposed rule implements the program created and authorized by Section 67-4723A, Idaho Code, which is the Idaho Small Business Federal Funding Assistance Act passed by the 2011 Legislature. The temporary and proposed rule provides the framework to implement the Act and in short, provides for the following: title and scope, administrative appeals, mailing address and office hours, compliance with the public records act, definitions, rules governing eligibility and eligible reimbursable costs, and the grant application process (including the application format and information required from each applicant).

The Department of Commerce notes that negotiated rulemaking was not feasible because of the need to adopt a temporary rule to provide immediate assistance to small businesses. The effective date of the temporary rule is June 1, 2012.

The temporary and proposed rule appears to be authorized by Sections 67-4702(2) and 67-4723A, Idaho Code.

cc: Department of Commerce
Jeffery Sayer & Gloria Mabbutt

IDAPA 28 - DEPARTMENT OF COMMERCE

28.02.06 - IDAHO SMALL BUSINESS FEDERAL FUNDING ASSISTANCE ACT RULES

DOCKET NO. 28-0206-1201 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Title 67, Chapter 47, the Idaho Small Business Federal Funding Assistance Act, Sections 67-4702(2) and 67-4723A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 20, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The state intends to provide incentive funding for Idaho companies that commit private resources toward the process of attracting federal grants. The Department of Commerce shall administer this program of state grants to assist and incentivize new, emerging, and expanding Idaho small, for-profit businesses in the development of federal funding proposals that lead to the development of commercial products or services. The Department shall administer this program in such a way as to avoid favoritism of any particular enterprise and to maximize the public purposes of increasing the number of submitted proposals from Idaho small businesses and increasing the number of grant awards to these businesses. Particular attention shall be paid to the encouragement of companies that have not competed for federal funding awards in the past.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To provide immediate benefit to new, emerging, and expanding Idaho small, for-profit businesses in the development of federal funding proposal for receiving federal grants.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee imposed by this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The program is an annual appropriation of \$50,000 from the general fund. The impact to the Department would be minimal. The entire \$50,000 will be used to offset business proposals development costs through individual awards not to exceed \$4,000. No additional funds or capital items are necessary.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt a temporary rule that provides immediate assistance to small businesses.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no documents or materials incorporated by reference in this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Gloria Mabbutt at (208) 334-2650, extension 2139.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 27, 2012.

Dated this 14th day of May, 2012.

Jeffery Sayer
Director
Idaho Department of Commerce
700 West State St.
P.O. Box 83720
Boise, ID 83720-0093
Phone: (208) 334-2470 Fax: (208) 334-2631

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 28-0206-1201**

**IDAPA 28
TITLE 02
CHAPTER 06**

28.02.06 - IDAHO SMALL BUSINESS FEDERAL FUNDING ASSISTANCE ACT RULES

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Sections 67-4702(2) and 67-4723A, Idaho Code. (6-1-12)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 28.02.06, "Idaho Small Business Federal Funding Assistance Act Rules." (6-1-12)T

02. Scope. These rules establish the process and procedures for application of the Idaho Small Business Federal Funding Assistance Grant. They also define the terms and conditions for the awarding of these grants to qualified small businesses. The program is state-funded and operated by the Idaho Department of Commerce. (6-1-12)T

03. Purpose. The purpose of the program is to have a self-sustaining, on-going state grant program to assist and encourage small businesses to apply for and win federal grant awards. Federal grant awards will be used to create new innovative products or services to expand and grow their companies. Each state grant provided to businesses will be used to reimburse companies for qualified expenses incurred in completing a federal grant proposal. To create a self-sustaining, on-going state grant program, small businesses accepting a state grant resulting in winning a federal grant award will agree to repay the state grant. This will help replenish the state grant fund and create a consistent, sustainable state fund that will provide a continuous source of funding for small businesses in the future. (6-1-12)T

002. WRITTEN INTERPRETATIONS.

These rules may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. These documents are available for public inspection in the Department of Commerce office. (6-1-12)T

003. ADMINISTRATIVE APPEALS.

IDAPA 11.04.01, "Idaho Rules of Administrative Procedure of the Attorney General," Section 100, et. seq., shall apply. (6-1-12)T

004. INCORPORATION BY REFERENCE.

No documents or additional materials have been incorporated by reference into this rule. (6-1-12)T

005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The street address of the Idaho Department of Commerce is 700 W. State Street, Boise, Idaho 83720-0093. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The telephone number of the Department is (208) 334-2470. The Department's facsimile number is (208) 334-2631. (6-1-12)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Department records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (6-1-12)T

007. -- 010. (RESERVED)

011. DEFINITIONS.

For the purposes of these rules, the following words are defined. (6-1-12)T

01. Department. The Idaho State Department of Commerce. (6-1-12)T

02. Federal Funding. Grants available to for-profit businesses as awarded by federal agencies through small business innovative research grants, small business technology transfer research grants, broad area announcements or other grant programs. (6-1-12)T

03. Self-Sustaining Program. Qualified small businesses accepting a state grant resulting in a federal grant award will agree to repay the grant and replenish the state grant fund. These funds shall be used for future grants to small businesses. (6-1-12)T

04. Small Business. An Idaho for-profit business with five hundred (500) or fewer employees. (6-1-12)T

05. State Grants, Grant Funds, or State Funds. A grant award of up to four thousand dollars (\$4,000) limited exclusively to the reimbursement of claimable expenses incurred by an Idaho small business pursuant to the process of competing for federal funding awards. (6-1-12)T

012. STATE OBJECTIVES.

01. Incentive Funding. The state intends to provide incentive funding for Idaho companies that commit private resources toward the process of attracting federal grants. The Department shall administer this program of state grants to assist and incentivize new, emerging, and expanding Idaho small, for-profit businesses in the development of federal funding proposals that lead to the development of commercial products or services. The Department shall administer this program in such a way as to avoid favoritism of any particular enterprise and to maximize the public purposes of increasing the number of submitted proposals from Idaho small businesses and increasing the number of grant awards to these businesses. Particular attention will be given to companies that have not previously competed for federal funding awards who will be encouraged to apply. (6-1-12)T

02. State Grants. (6-1-12)T

a. Incentive funding shall be provided through state grants that reimburse a small business up to four

thousand dollars (\$4,000). A small business that wins a small federal grant and has been reimbursed for expenses for submission of the grant proposal will agree to reimburse the state grant fund. (6-1-12)T

b. Companies that win federal awards in excess of two hundred fifty thousand dollars (\$250,000) will agree to reimburse the fund for up to five times the amount of their state grant or twenty thousand dollars (\$20,000). These reimbursements will replenish the incentive fund. (6-1-12)T

03. Selection of Recipients. Small business grant recipients will be selected by a review board to determine their compliance with program requirements. The application process is based on merit and the competitiveness of eligible businesses. Close attention to these requirements is necessary to prepare a successful project. Department staff is available for technical assistance as needed and contacting Department staff is encouraged to assist in determining eligibility for a proposed project. (6-1-12)T

013. ELIGIBLE APPLICANTS.

In order to be eligible for an Idaho Small Business Federal Funding Assistance Act grant an applicant must be an Idaho-owned, for-profit and independently operated business with five hundred (500) employees or less. The principle researcher must be employed by the business. (6-1-12)T

014. ELIGIBLE COSTS.

01. Costs. Eligible business proposal development costs shall be offset through individual awards not to exceed four thousand dollars (\$4,000). Eligible development costs include, but are not limited to, travel to visit technical experts, technical assistance visits with staff or coaches, technical reviews by qualified subject matter experts, commercialization plan coaching, company staff time to write the proposal, and use of a technical writer, graphic artist or federal grant coach. (6-1-12)T

a. Of the four thousand dollar (\$4,000) grant, five hundred dollars (\$500) will be awarded for submitting the proposal to the federal agency at least three (3) weeks prior to the federal agency's submission deadline. If the proposal is submitted and accepted by the appropriate federal agency on or before the federal agency's submission deadline, the small business applicant qualifies for five hundred dollars (\$500) in incentive funding. (6-1-12)T

b. Documentation must be provided by the federal funding agency prior to receiving these funds. Representatives of the Idaho state grant funds reserve the right to refuse early submittal funding if, in their sole judgment, a federal funding proposal is incomplete or lacking in sufficient detail. (6-1-12)T

02. Number of Awards. Applicants shall not receive more than one (1) award for each innovative project idea during any state of Idaho fiscal year (July 1 - June 30). Applicants may receive additional funds by submitting a different and distinct innovative project idea, though particular attention shall be paid to encourage companies that have not competed for federal funding awards in the past to apply for state grant funds. (6-1-12)T

03. Reimbursement. State grant funds will be made on a reimbursement basis. Disbursement of the state grant will be made to grantees once a Grant Contract Agreement has been duly executed between the grantee and the Department. Payment of the award will be made after the grantee has submitted invoices or receipts for eligible costs to the Department grant fund manager. The Grant Contract Agreement shall also include a pay-back clause. (6-1-12)T

04. Technical Assistance. When applicable, a Department grant fund manager will provide development support and proposal review services to selected applicants. Written responses will be used to assist applicants with proposal writing assessment of technical and commercial feasibility. (6-1-12)T

015. GRANT APPLICATION PROCESS.

01. Application Review. An Idaho fund review board will evaluate all grant applications and ultimately award or deny assistance. The review board may include public and private sector participants as the Department grant fund manager deems appropriate. The review board will evaluate and rank Idaho small business grant applications based on award criteria set in these rules. The review board shall have the sole discretion in

determining which applications meet these criteria. The review board may require that grant applicants fulfill additional requirements as a condition of receiving an award, if it is determined these requirements are vital to the success of the federal grant proposal. (6-1-12)T

02. Application Format. All sections of the application must follow the content and format instructions outlined in these rules. The application will be used to evaluate the applicants' eligibility for a grant. The application serves as an important first step in the development of a competitive project proposal to a federal agency. The application assists the review board and the applicant in identifying shortcomings or problem areas that need to be addressed. Proposals that do not follow the content and format instructions outlined in these rules will be deemed non-responsive. (6-1-12)T

a. All pages of the application must be in Times New Roman font, twelve-point size (12). All margins shall be one (1) inch in width. (6-1-12)T

b. Applicants must not disclose proprietary or confidential information in the application. Applications marking information as "Confidential," "Trade Secret," or "Proprietary" will be considered to be non-responsive. (6-1-12)T

c. All applications must be submitted electronically. Adobe PDF or Microsoft Word document format is required. (6-1-12)T

03. Application. The application shall include the following sections: (6-1-12)T

a. Summary Page. The summary shall be limited to one (1) page. Information shall include: (6-1-12)T

i. Name of applicant business or for-profit entity; (6-1-12)T

ii. Postal and physical business address; (6-1-12)T

iii. Number of years in business; (6-1-12)T

iv. Telephone number and facsimile number; (6-1-12)T

v. Project manager's name; (6-1-12)T

vi. Principle researcher's name; (6-1-12)T

vii. Targeted federal agency; (6-1-12)T

viii. Agency topic and subtopic title; (6-1-12)T

ix. URL for agency solicitation; (6-1-12)T

x. Statement describing the project; (6-1-12)T

xi. Submission due date to the federal agency; (6-1-12)T

xii. Preliminary project title; (6-1-12)T

xiii. Estimated project length; (6-1-12)T

xiv. Estimated project cost; (6-1-12)T

xv. Date of application submission; and (6-1-12)T

xvi. Signature of authorized person submitting the application. (6-1-12)T

b. Main Body. Three (3) pages are recommended for the main body with a maximum of five (5) pages. The main body of the application shall contain the following headings and information: (6-1-12)T

i. Project description. The project description is limited to two hundred and fifty (250) words. It must include the problem or opportunity, project objectives, description of the effort, anticipated results, and potential commercial applications. (6-1-12)T

ii. Business history. The business history shall provide background information on the applicant's existing or potential business, mission, primary customers, and any other pertinent information. (6-1-12)T

iii. Technical point of contact (TPOC). The applicant must show there has been contact with the federal agency by providing a brief synopsis of the TPOC's comments and recommendations. (6-1-12)T

iv. Market research and literature reviews. This section must show what other work is currently being conducted in the area being addressed. Who are the competitors? Why is the solution better or more innovative? Are there existing patents related to the technology being proposed? (6-1-12)T

v. Prior research experience. The applicant must describe relevant research partners or collaborators used in the development of the proposal. Experience in conducting research in other non-related areas must be included to demonstrate knowledge and experience to design and manage a successful research project. (6-1-12)T

vi. Commercialization approach. The applicant must describe the commercialization approach that will be pursued. This includes identifying the primary customer, the size of the market, who will manufacture the product and where it will be manufactured. The applicant must also address how long it will take for the product to be ready for the market. (6-1-12)T

vii. Prior federal grant awards. The applicant shall list prior federal grant awards received or applied for in the past five (5) years. This includes the year of submission or award, amount of award, agency, topic area, title and whether it was a Small Business Innovation Research or Small Business Technical Transfer grant, Phase I or Phase II award, broad area announcement or other grants. (6-1-12)T

c. Cost justification. This section is limited to one (1) page. It outlines designated expenditures of up to four thousand dollars (\$4,000) from the state fund. When proposals are being developed, one thousand dollars (\$1,000) of this funding may be automatically set aside as incentive funding to encourage timely proposal development. Of the one thousand dollars (\$1,000) incentive funds, five hundred dollars (\$500) is designated and reserved as early submittal incentive funding. The remaining five hundred dollars (\$500) is provided upon proof of timely final proposal submission to the appropriate federal agency's solicitation. (6-1-12)T

i. Total reimbursement cannot exceed four thousand dollars (\$4,000), including the one thousand dollars in incentive funding. (6-1-12)T

ii. The following format shall be used to list each budget item noting the expenses the small business applicant expects to incur. Eligible expenses are shown in Section 014 of these rules.

Discretionary Spending

Proposal development/preparations expenses	\$
Private-sector support or consulting	\$
Other (add as many rows as necessary)	\$
TOTAL - Not to exceed	\$ 3,000

Incentive Funding

Early submittal incentive funding (three weeks prior to federal agency deadline)	\$ 500
Proof of successful proposal submission to federal funding agency	\$ 500
TOTAL	\$ 1,000

Applicants must provide a brief narrative that itemizes the costs and states the importance of receiving this funding as part of the project proposal development effort. (6-1-12)T

d. Resumes/Biographies. Resumes and biographies shall be limited to five (5) pages. Individual team member, consultant, or subcontractor resumes must be no longer than one (1) page. Full or part-time status must be noted. If the applicant is applying for a research and development grant, a resume or biography for the principal investigator is mandatory and must be clearly marked. Resumes must include education, skills, professional organizations/affiliations, awards, employment history, and published research papers, and other relevant information or areas of research/specialization. (6-1-12)T

015. -- 999. (RESERVED)