

261—56.4(85GA,HF648) Program eligibility, application scoring, and funding decisions.

56.4(1) Program eligibility. To be eligible under the program, an applicant shall meet all of the following requirements:

a. The applicant shall be a business interested in establishing an ESOP. To establish that this criterion is met, the applicant shall state the reasons for its interest in establishing an ESOP.

b. The applicant shall be, or be willing to become, an IRS subchapter C or subchapter S corporation. To establish that this criterion is met, the applicant shall include a copy of its articles and documentation establishing the applicable IRS election. An applicant not yet a corporation may be required to execute a letter of intent.

c. The applicant shall have a valuation that is sufficient to make an ESOP feasible. To establish that this criterion is met, the applicant shall provide information estimating the value of the business and information about the source of that estimate. This information may be a good-faith estimate. The authority will not set a specific minimum valuation; however, applicants are advised that a business with valuation less than \$5 million may not be considered a feasible candidate for an ESOP.

d. The applicant shall have a number of employees, eligible employee types, and a total payroll that are sufficient to make an ESOP feasible. To establish that this criterion is met, the applicant shall provide relevant payroll information. The authority will not set a specific minimum number of employees; however, applicants are advised that a business with fewer than 25 employees may not be a feasible candidate for an ESOP.

e. The applicant shall have a cash flow level sufficient to make an ESOP feasible. To establish that this criterion is met, the applicant shall provide relevant financial statements. The authority will not set a minimum cash flow level; however, applicants are advised that a business with cash flow less than \$500,000 may not be a feasible candidate for an ESOP.

f. The applicant is not a retail business.

g. The applicant is not a publicly traded company.

h. The applicant has not completed a feasibility study for purposes of exploring an ESOP formation in the three years prior to application for the program. An applicant who has engaged a service provider as of the time of application shall provide a copy of the engagement letter to the authority.

56.4(2) Application scoring. A business meeting the requirements of subrule 56.4(1) may apply to the authority for financial assistance under the program. The authority will review applications for completeness. The authority may engage an ESOP advisory panel for assistance in evaluating the applications as needed. As part of the evaluation process, an applicant may be required to interview with authority staff and with members of the ESOP advisory panel about the applicant's business, future plans, and interest in forming an ESOP. Authority staff will evaluate the applications and give them an average numerical score between 0 and 100. The numerical score will reflect the extent to which an applicant is a feasible candidate for an ESOP. In determining the numerical score, the authority will take into account the extent to which each applicant meets the requirements of subrule 56.4(1). The authority will keep records of the scoring process and make those records available to applicants.

56.4(3) Funding decisions. Each application, including its numerical score, will be referred to the director with a recommended funding decision. The director will make the final funding decision on each application, taking into consideration the score and the funding recommendation of authority staff. The director may not approve funding for an application that receives an average score of less than 50 points.

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