**TITLE 85, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1A**

**NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Rules and Regulations Concerning the Administration**

**Of Nebraska Job Training Grants**

**Issue Date: March 2015**

**NEBRASKA ADMINISTRATIVE CODE**

**TITLE 85 NAC 1A**

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**NEBRASKA ADMINISTRATIVE CODE**

**TITLE 85 – DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Chapter 1A – Rules and Regulations Concerning the Administration of the**

**Nebraska Job Training Grant Program**

**001. Purpose.** The purpose of these rules and regulations is to aid the Nebraska Department of Economic Development in the administration of Nebraska Job Training Grants authorized in Section 81-1201.21 and Sections 81-1202 through 81-1210 of the Nebraska Revised Statutes.

**002. Definitions.**

**002.01 Community College Area** – means an area established by Section 85-1504 of the Nebraska Revised Statutes.

**002.02 Business Plan** – means a business training plan.

**002.03 Department** – means the Nebraska Department of Economic Development.

**002.04 Diversify or Diversification** – means to make or become more diverse or varied; to enlarge, modify, or vary a range of products or field of operations; or to expand.

**002.05 Enterprise Zone –** meansan area designated as an enterprise zone pursuant to the Enterprise Zone Act found in Sections 13-2101 to 13-2112 of the Nebraska Revised Statutes.

**002.06 Export-Oriented** – means actual sales, or the potential to sell, goods or services in a market outside of Nebraska.

**002.07 Full-Time Permanent Position** – means a job which is created for an individual working an average of thirty-five or more hours a week for one year.

**002.08 High Poverty Area** – means an area consisting of one or more contiguous census tracts which contain a percentage of persons with income below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent applicable data from the United States Census Bureau, or other comparable data source identified by the Department.

**002.09 Grant Disbursement Period** – means the time period designated in a Job Training Grant contract during which Job Training Grant funds may be disbursed by the Department.

**002.10 Job Training Cash Fund** – means the fund established by §81-1201.21 of the Nebraska Revised Statutes, which is used by the Department to provide Job Training Grants as described in Section 004 of these rules and regulations.

**002.11 Job Training Cash Fund Account** – means the subaccount established by the Department for money transferred from the Cash Reserve Fund to the Job Training Cash Fund on or after July 1, 2005, and used by the Department for Job Training Grants as described in Section 004 of these rules and regulations.

**002.12 Job Training Grant** – means a grant from the Job Training Cash Fund, Job Training Cash Fund Account, or Job Training Subaccount awarded to an Eligible Business to create or retain jobs and thus assist in the Diversification of Nebraska’s economic base.

**002.13 Job Training Subaccount** – means the account established within the Job Training Cash Fund that is funded with investment income earnings accruing to the Job Training Cash Fund, and used for Job Training Grants as described in Section 005 of these rules and regulations.

**002.14 Local Prevailing Wage** – means the average wage of all occupation openings as reported by the Nebraska Department of Labor’s “Nebraska Survey of Hourly Wage Rates” for the relevant job service area, or other comparable data source identified by the Department.

**002.15 Program Schedule** – means a written description and an outline of the schedule for the training that will be provided for each position that will be trained through a Job Training Grant project.

**002.16 Teleworker Job Creation Act** – means the act found in Sections [48-3001](http://nebraskalegislature.gov/laws/statutes.php?statute=48-3001) to [48-3011](http://nebraskalegislature.gov/laws/statutes.php?statute=48-3011) of the Nebraska Revised Statutes.

**003 Eligible Businesses.**

Eligible businesses are for-profit businesses subject to Nebraska State tax, or non-profit businesses, engaged in any of the following:

1. The conducting of research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;
2. The performance of data processing, telecommunication, insurance, or financial services;
3. The assembly, fabrication, manufacture, or processing of tangible personal property;
4. The storage, warehousing, distribution, or transportation of tangible personal property;
5. The sale of tangible personal property if more than twenty percent of the total sales are in any combination of the following:

**003.05A** Sales for resale (wholesale sales), or

**003.05B** Sales of tangible personal property assembled, fabricated, manufactured, or processed by the seller, or

**003.05C** Sales of tangible personal property used by the purchaser in any of the activities included Sections 3.01 through 3.10 of these rules and regulations.

1. Administrative management of any activities including headquarters facilities of such activities;
2. Software development, computer systems design, or product testing services;
3. Guidance or surveillance systems, technology licensing, data centers, or internet web portals;
4. Other primary industries that address the wealth-creating sectors of Nebraska’s economy, as determined by the Department; or

**003.10** Any combination of the activities listed above.

**004 Job Training Cash Fund & Job Training Cash Fund Account Projects.**

The Department may use the Job Training Cash Fund or the Job Training Cash Fund Account to provide grants to Eligible Businesses for any of the following purposes: (a) to provide reimbursements for job training activities, including employee assessment, pre-employment training, on-the-job training, training equipment costs, and other reasonable costs related to helping industry and business locate or expand in Nebraska; (b) to provide upgrade skills training of the existing labor force necessary to adapt to new technology or the introduction of new product lines; or (c) to provide grants pursuant to Section [81-1210.02](http://nebraskalegislature.gov/laws/statutes.php?statute=81-1210.02) of the Nebraska Revised Statutes.

**004.01 Project Eligibility.**

A grant may be provided to an EligibleBusiness with funding from the Job Training Cash Fund or the Job Training Cash Fund Account for the purposes identified in Section 004 of these rules and regulations, if the project meets all of the following requirements:

**004.01A** The project must create jobs or, due to new processes or purchases of new technology or equipment, require retraining of existing positions in order to retain those positions in Nebraska.

**004.01B** The average wage level of all jobs created or retrained through the project must equal or exceed the Local Prevailing Wage.

**004.01C** The jobs created must Diversify the local economy;

**004.01D** The goods or services produced by the business must be Export-Oriented.

**004.01E** Seventy-five percent of the jobs created must be Full-Time Permanent Positions.

**004.01F** All jobs must be created and trained within three calendar years from the date the project is approved by the Department.

**004.01G** All jobs must be retained for at least two years after completion of the project.

**004.02 Project Application.**

An Eligible Business may apply to the Department for a Job Training Grant eligible to be funded from the Job Training Cash Fund or Job Training Cash Fund Account, as detailed in Section 004.01 of these rules and regulations. The application process will be determined by the Department, but at a minimum, the Eligible Business must complete and submit application materials required by the Department, and submit a Business Plan to the Department. The Business Plan must include all of the following**:**

**004.02A** Documentation that the business is an Eligible Business engaged in one or more of the activities included Sections 3.01 through 3.10 of these rules and regulations; including a description of the Eligible Business’s products and/or services.

**004.02B** A description of the project for which the Job Training Grant is being requested.

**004.02C** The job title and description of all positions to be created or retrained.

**004.02D** The hourly wage of each all positions to be created or retrained.

**004.02E** The number of jobs to be created and/or the number of existing positions to be retrained; and of those positions, the number of each that are Full-Time Permanent Positions.

**004.02F** A Program Schedule for the project.

**004.02G** Documentation that the project meets the project eligibility criteria detailed in 04.01 of these rules and regulations.

**004.02H** Other information or documentation required, or requested by the Department relating to the project.

**004.03 Project Award Limitations.**

For all Job Training Grants approved by the Department to be funded from the Job Training Cash Fund or Job Training Cash Fund Account, the Department will determine the dollar amount to award per position to be created or retained. Such amounts will not exceed : (a) an average expenditure of five thousand dollars per job created if the proposed wage levels do not exceed thirty thousand dollars per year, (b) an average expenditure of ten thousand dollars per job if the proposed wage levels exceed thirty thousand dollars per year but do not exceed fifty thousand dollars per year, or (c) an average expenditure of twenty thousand dollars per job if the proposed wage levels exceed fifty thousand dollars per year or if the jobs created are located in a High-Poverty Area.

**004.04 Project Priorities.**

The Department shall give a preference to projects carried out in whole or in part within an Enterprise Zone.

Whenever practicable, the Department shall give priority consideration to training services offered by Community College Areas.

**005 Job Training Subaccount Projects.**

The Department may use the Job Training Subaccount to provide grants to Eligible Businesses for training employees and potential employees of Eligible Businesses that (a) employ twenty-five or fewer employees on the application date, (b) employ, or train for potential employment, residents of rural areas of Nebraska, or (c) are located in or employ, or train for potential employment, residents of High-Poverty Areas. The Job Training Subaccount shall also be used as provided in the Teleworker Job Creation Act and as provided in section [81-1210.02](http://nebraskalegislature.gov/laws/statutes.php?statute=81-1210.02) of the Nebraska Revised Statutes.

**005.01 Project Eligibility.**

A grant may be provided to an EligibleBusiness with funding from the Job Training Subaccount for the purposes identified in Section 005 of these rules and regulations, if the project meets all of the following requirements:

**005.01A** If the Eligible Business has established a program under which residents of rural areas or High Poverty Areas are trained for employment or potential employment; the program must be designed to fill a minimum of four positions in rural areas and a minimum of eight positions in High-Poverty Areas for such Eligible Business.

**005.01B** The wage level of the positions available or to be created must meet the Local Prevailing Wage.

**005.01C** The positions available or to be created must Diversify the local economy.

**005.01D** A minimum of seventy-five percent of the positions available or to be created must be Full-Time Permanent Positions.

**005.01E** The Eligible Business must provide a match of a minimum of twenty-five percent of the value of the Job Training Grant, either monetarily or through in-kind services, as part of the training for each individual trained.

**005.01F** Any new position created must be hired and trained within three calendar years.

**005.01G** The number of individuals trained must not exceed one hundred twenty-five percent of the number of positions that will be available at the time of application.

**005.01H** The goods or services produced by the Eligible Business must be Export-Oriented.

**005.02 Project Application.**

An Eligible Business may apply to the Department for a Job Training Grant eligible to be funded from the Job Training Subaccount as detailed in Section 005 of these rules and regulations. The application process will be determined by the Department, but at a minimum, the Eligible Business must complete and submit application materials required by the Department, and submit a Business Plan to the Department. The Business Plan must include all of the following**:**

**005.02A** Documentation that the business is an Eligible Business engaged in one or more of the activities included Sections 3.01 through 3.10 of these rules and regulations; including a description of the Eligible Business’s products and/or services.

**005.02B** A description of the project for which the Job Training Grant is being requested.

**005.02C** The job title and description of all positions to be created or retrained.

**005.02D** The hourly wage of each position to be created or retrained.

**005.02E** The number of jobs to be created or the number of existing positions to be retrained; ; and of those positions, the number of each that are Full-Time Permanent Positions.

**005.02F** If the Eligible Business has established a program under which residents of rural areas or High Poverty Areas are to be trained for employment or potential employment, the number of jobs to be created or retained in rural areas and the number to be created or retained in High-Poverty Areas.

**005.02G** A Program Schedule for the project.

**005.02H** Documentation the project meets the eligibility criteria established in 05.01 of these rules and regulations.

**005.02I** Other information or documentation as may be required, or requested by the Department relating to the project.

**005.02J** If the project will involve a partnership with another entity as described in Section 005.03 of these rules and regulations, information specifying the role of the partnering entity in identifying and training potential job applicants for the Eligible Business.

**005.03 Project Partnerships.**

If the Eligible Business is applying for a Job Training Grant as a business that has established a program under which residents of rural areas or High Poverty Areas are trained for employment or potential employment, the Eligible Business may partner with: (a) a postsecondary educational institution; (b) a private, nonprofit organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code, whose purpose is providing basic job and life skills training to individuals in need of such training in rural or high-poverty areas; or (c) a learning community coordinating council or school district that has partnered with a private, nonprofit organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code, whose purpose is providing basic job and life skills training to individuals in need of such training in rural or High-Poverty Areas.

**005.04 Project Award Limitations.**

For all Job Training Grants approved by the Department to be provided from the Job Training Subaccount, the Department will determine the dollar amount to award per position to be created or retained. Such amounts will not exceed: (a) ten thousand dollars per job created if the proposed wage levels do not exceed thirty thousand dollars per year; (b) fifteen thousand dollars per job if the proposed wage levels exceed thirty thousand dollars per year but do not exceed fifty thousand dollars per year; or (c) twenty-five thousand dollars per job if the proposed wage levels exceed fifty thousand dollars per year or if the jobs created are located in a High-Poverty Area.

 **005.05 Project Priorities.**

The Department shall give a preference to job training projects carried out in whole or in part within an Enterprise Zone.

Whenever practicable, the Department shall give priority consideration to training services offered by Community College Areas.

**006 Disbursements.**

The Department will disburse Job Training Grant funds on a reimbursement basis. The Department may establish limitations on disbursement requests, or may establish a disbursement schedule in the Job Training Grant contract between the Department and the Eligible Business.

**007 Performance Reports.**

An Eligible Business awarded a Job Training Grant shall provide annual performance reports to the Department and a final performance report upon the completion of the project or program. The due dates, schedule for submission, and required content of annual performance reports and final performance reports may be established by the Department, and may be included in the Job Training Grant contract between the Department and the Eligible Business.

**008 Monitoring.**

The Department may monitor the progress of Job Training Grant projects. As deemed necessary, the Department may conduct a site audit and review business and employee records pertaining to Job Training Grant projects.

**009 Non-Compliance & Penalties.**

For all Job Training Grants, the following events are events of Non-Compliance. Should an event of Non-Compliance occur, the Eligible Business will be subject to penalties as follows:

**009.01** If an Eligible Business that receives the Job Training Grant creates and retains fewer positions than stated in the Business Plan or the Job Training Grant contract between the Department and the Eligible Business, the following repayment plan will apply: (a) If less than fifty percent of the positions are created or retained, the Eligible Business shall repay one hundred percent of the grant; (b) If fifty percent or more but less than seventy percent of the positions are created and retained, the Eligible Business shall repay fifty percent of the grant; (c) If seventy percent or more but less than ninety percent of the positions are created or retained, the Eligible Business shall repay twenty-five percent of the grant; (d) If ninety percent or more of the positions are created or retained, no repayment shall be required.

**009.02** If an Eligible Business that receives the Job Training Grant relocates or abandons its site during the Grant Disbursement Period, the disbursements made to the Eligible Business will be immediately due and payable to the Department.

**009.03** If an Eligible Business is sold during the Grant Disbursement Period, the disbursements made to the Eligible Business will be immediately due and payable to the Department unless the purchaser, the Department, and the Eligible Business agree, in writing, that the purchaser will carry out the terms and conditions of the Business Plan applicable to the project, and carry out the terms and conditions of the Job Training Grant contract applicable to the project.

**010 Repayments Credited to Job Training Cash Fund.**

The Department will remit repayments of Job Training Grants due to non-compliance to the State Treasurer for credit to the Job Training Cash Fund.