

DEPARTMENT OF ECONOMIC
DEVELOPMENT

TITLE 85, DEPARTMENT OF ECONOMIC
DEVELOPMENT

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Table of Contents

CHAPTER 1A, 1A, 1C - The Nebraska Job Training Grant Program and the
Community Development Assistance Act.....3

CHAPTER 1C,19

CHAPTER 4, MICROENTERPRISE DEVELOPMENT ACT.....21

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 - means an 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 to 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:

003.01 The conducting of research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

003.02 The performance of data processing, telecommunication, insurance, or financial services;

003.03 The assembly, fabrication, manufacture, or processing of tangible personal property;

003.04 The storage, warehousing, distribution, or transportation of tangible personal property;

003.05 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.

003.06 Administrative management of any activities including headquarters facilities of such activities;

003.07 Software development, computer systems design, or product testing services;

003.08 Guidance or surveillance systems, technology licensing, data centers, or internet web portals;

003.09 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 of the Nebraska Revised Statutes.

004.01 Project Eligibility.

A grant may be provided to an Eligible Business 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 of the Nebraska Revised Statutes.

005.01 Project Eligibility.

A grant may be provided to an Eligible Business 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.

Chapter 1C - Community Development Assistance Act Rules and Regulations

001. Scope and Authority.

The Department of Economic Development, under authority of, and in compliance with, Sections 13-201 through 13-208 of the Nebraska Revised Statutes, promulgates the following Community Development Assistance Act Rules and Regulations.

002. Definitions.

002.01 Act. Act shall mean the Community Development Assistance Act;

002.02 Application. Application shall mean the proposal submitted by a Community Betterment Organization seeking to have a program or project certified for Tax Credit status under the Act.

002.03 Area of Chronic Economic Distress. Area of Chronic Economic Distress shall mean an area of the state which meets any of the following conditions: (a) An unemployment rate which exceeds the statewide average unemployment rate; (b) A per capita income below the statewide average per capita income; or (c) A population loss between the two most recent federal decennial censuses.

002.04 Business Firm. Business Firm shall mean any business entity, including a corporation, a fiduciary, a sole proprietorship, a partnership, a limited liability company, a corporation having an election in effect under Chapter 1, subchapter S of the Internal Revenue Code, as defined in Neb. Rev. Stat. §49-801.01, subject to the state income tax imposed by Neb. Rev. Stat. § 77-2715 or Neb. Rev. Stat. §77-2734.02, an insurance company paying premium or related retaliatory taxes in this state pursuant to Neb. Rev. Stat. §44-150 or Neb. Rev. Stat. §77-908, or a financial institution paying the tax imposed pursuant to Neb. Rev. Stat. §§77-3801 to 77-3807.

002.05 Community Assistance. Community Assistance shall mean furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement of any part or all of a Community Development Area.

002.06 Community Betterment Organization. Community Betterment Organization shall mean (a) any organization performing Community

Services or offering Community Assistance in a Community Development Area and to which contributions are tax deductible under the provisions of the Internal Revenue Service of the United States Department of the Treasury and (b) a county, city, or village performing Community Services or offering Community Assistance in a Community Development Area.

002.07 Community Development Area. Community Development Area shall mean any village, city, county, unincorporated area of a county, or census tract which has been designated by the Department as an Area of Chronic Economic Distress.

002.08 Community Services. Community Services shall mean any type of the following in a Community Development Area: (a) employment training; (b) human services; (c) medical services; (d) physical facility and neighborhood development services; (e) recreational services or activities; (f) educational services; or (g) crime prevention activities, including, but not limited to, (i) the instruction of any individual in the Community Development Area that enables him or her to acquire vocational skills, (ii) counseling and advice, (iii) emergency services, (iv) community, youth, day care, and senior citizen centers, (v) in-home services, (vi) home improvement services and programs, and (vii) any legal enterprise which aids in the prevention or reduction of crime.

002.09 Department. Department shall mean the Department of Economic Development;

002.10 Director. Director shall mean the Director of Economic Development;

002.11 Individual. Individual shall mean any person subject to the state income tax imposed by Neb. Rev. Stat. § 77-2715.

002.12 Tax Credit. Tax Credit shall mean a credit reducing the amount of tax for which an Individual or Business Firm is liable, as authorized under the Act.

003. Eligible Applicants under the Act.

Any Community Betterment Organization which provides Community Assistance or Community Services in a Community Development Area may submit an Application seeking to have a program or project certified for Tax Credit status under the Act.

004. Content of the Application.

004.01 The Application must include all of the following:

004.01A A description of the project or program to be conducted, including and the Community Assistance or Community Services that will be provided as a result of the project or program.

004.01B A description of the Community Development Area, including the geographical location and boundaries of the Community Development Area.

004.01C Evidence that the program or project addresses at least one (1) of the following priorities established by the Department: (a) the program or project substantially contributes to self-help effort by building the capacity of residents of the area to be served in addressing locally defined objectives; (b) the program or project will result in the provision of essential services to low and moderate income persons which are not adequately being provided in the affected neighborhood and for which there are no other readily available resources; or (c) the program or project tangibly contributes to the development of lasting cooperation and partnership efforts of area organizations and businesses.

004.01D The estimated amount to be required for completion of the program or project, including: (1) a proposed budget for the program or project with information on personnel and administrative overhead costs; (2) the amount of Tax Credits requested for the year of Application; and (3) the amount of contributions pledged and/or anticipated from Individuals or Business Firms eligible for Tax Credits, and other sources of funding for the program or project.

004.01E The annual estimated amount required for an ongoing program, including a proposed annual budget with information on personnel and administrative overhead costs, and the amount of Tax Credits anticipated to be sought in future years.

004.01F A description of the Community Betterment Organization's plans and capacity for implementing the program or project and continuing the program or project.

004.01G Documentation that the Application was reviewed by the appropriate Subdivision of Local Government, including any comments on the Application provided by the Subdivision of Local Government; and information regarding whether the Application is consistent with any community development plan that may exist for the area in which the Community Betterment Organization will provide Community Services or Community Assistance.

004.01H If the Community Betterment Organization is recognized by the Internal Revenue Service of the United States Department of the Treasury as an organization to which contributions are tax deductible, documentation of such recognition.

005. Evaluation of Application; Certification of Program or Project.

005.01 The Department will review all Applications based on the following criteria:

005.01A Extent and severity to which an area is experiencing chronic economic distress;

005.01B Extent to which the proposed program or project will reduce chronic economic distress of the area;

005.01C Extent to which the proposed program or project addresses the priorities established by the Department;

005.01D Demonstrated capacity and performance of the Community Betterment Organization to execute the proposed program or project;

005.01E The involvement of residents of the affected area in the planning of the proposed program or project and the extent to which they will be involved in its implementation;

005.01F Extent to which private sector contributions have been committed to the proposed program or project, contingent upon approval of the program or project by the Department;

005.01G Proposals submitted subsequent to the first year will be evaluated on performance of the prior year's program or project, other resources developed, and continued need.

005.02 The decision of the Department to approve or disapprove all or any portion of an Application and/or certify a program or project for a designated amount of Tax Credits will be provided in writing within forty-five days of receipt of a complete Application. If the program or project is approved and/or certified for a designated amount of Tax Credits, the Department will prepare and transmit a written agreement to the Community Betterment Organization. The date the written agreement is fully executed by the Community Betterment Organization and the Department will determine the date from which contributions can be made to the approved program or project.

006. Eligible Contributions.

006.01 Eligible Contributions.

Eligible contributions generally include contributions of money, property, or services to, or for the use of, a Community Betterment Organization for a project or program that has been certified for Tax Credit Status by the Department.

007. Requesting of Tax Credits by Contributors.

007.01 Form CDAA 1 - Tax Credit Request Form.

After an Individual or Business Firm makes a contribution to a Community Betterment Organization for a project or program that has

been certified for Tax Credit status by the Department, such Individual or Business Firm may apply to the Department for a Tax Credit. Application for a Tax Credit shall occur by submission to the Department, Form CDAA 1 - Tax Credit Request Form, with documentation evidencing the contribution made to the project or program that was certified for Tax Credit status by the Department.

008. Documentation and Valuation of Contributions.

008.01 Documentation of Contributions.

Documentation evidencing contributions made to projects or programs certified for Tax Credit status by the Department must be submitted to the Department, along with Form CDAA 1 - Tax Credit Request Form when requesting a Tax Credit. The Department may request additional documentation, as the facts and circumstances may require (or to substantiate the value of the contribution), but documentation shall generally be as follows:

008.01A Cash contribution - Cash contributions may be shown by a photocopy of both sides of the canceled check, or proof of electronic funds transfer which includes documentation from the bank account of origin and destination. Checks must be made payable to the Community Betterment Organization and noted specifically for that project or activity, and electronic funds transfers must be into the Community Betterment Organization's bank account for the project or program certified for Tax Credit Status by the Department.

008.01B Contribution of real property - Real property contributions may be shown by the deed and documentation of at least one independent appraisal of the real property by a real property appraiser credentialed under the Nebraska Real Property Appraiser Act, Neb. Rev. Stat. §§76-2201 to 76-2250.

008.01C Contribution of Equipment or Supplies - Equipment and supply contributions may be shown by copies of invoices signed by both the contributor and the Community Betterment Organization receiving the equipment or supplies.

008.01D Contribution of Services - Service contributions include provision services to a Community Betterment Organization that if not provided, the Community Betterment Organization would have to pay for, or purchase. Service contributions shall be shown by an affidavit submitted by the Individual or Business Firm demonstrating the net cost of the donated services (time spent providing services times the hourly wage plus other benefits paid to personnel providing the services); or (2) documentation of two price quotes obtained by the contributor demonstrating the cost of the services provided.

008.01E Contribution of Stock - Stock contributions must be converted into cash before the Community Betterment Organization

receives the donation. Stock contributions may be shown as cash contributions as provided in 008.01A.

008.01F Other Contributions - Other contributions may be shown by affidavit (or other signed statement deemed acceptable to the Department) identifying the contribution, the value of the contribution and how the value was determined, along with other information, as may be requested by the Department for the particular situation.

008.02 Valuation of Contributions.

The value of eligible contributions made to Community Betterment Organizations for projects or programs certified for Tax Credit status by the Department will be determined based upon the valuation of charitable contributions for federal income tax established by the United States Internal Revenue Service.

008.03 Qualification as Charitable Contribution for Federal Income Tax.

The Act requires that Tax Credits for contributions made to a project or program that was certified for Tax Credit status by the Department be for contributions which may qualify as a charitable contribution deduction on the federal income tax return filed by the Business Firm or Individual making such contributions. In addition to documentation required by Section 8.01 of these Rules and Regulations, the Department may require documentation from Business Firms or Individuals that demonstrates that contributions made to programs or projects approved and certified by the Department for Tax Credit Status may qualify as a charitable contribution deduction on the federal income tax return filed by the Business Firms or Individuals.

009. Approval and Amount of Tax Credits by the Department.

009.01 After Individuals and Business Firms submit Form CDAA 1 to the Department with adequate documentation of the contribution made to the project or program that was certified for Tax Credit status by the Department, the Department will transmit information to the Tax Commissioner of the Nebraska Department of Revenue indicating that a Tax Credit is to be allowed. If Tax Credits are allowed for Business Firms pursuant to Neb. Rev. Stat. §44-150 and Neb. Rev. Stat. §77-908, the Department will also transmit such information to the Nebraska Department of Insurance.

010. Other Requirements and Limitations.

010.01 Each fiscal year the Department will authorize Tax Credits for programs or projects in an amount which does not exceed the maximum amount of Tax Credits authorized in the Act.

010.02 The Department will not authorize more than \$50,000 of Tax Credits for any single program or project during any single fiscal year.

010.03 The minimum, eligible contribution amount for Tax Credits is \$50.

010.04 Tax Credits will not be given to a Business Firm or Individual for activities that are a part of its normal course of business.

010.05 The Tax Credit must be claimed on the tax return for the year in which the contribution is made by the Business Firm or Individual. Any Tax Credit balance may be carried over and applied against the Business Firm's or Individual's tax liability for the next five years immediately succeeding the tax year in which the Tax Credit was first allowed.

010.06 No Tax Credits will be given for any contributions received by the Community Betterment Organization prior to the effective date of the written agreement between the Department and Community Betterment Organization.

010.07 The maximum Tax Credit for a Business Firm or Individual will be determined by the Department, but will be no more than forty percent of the total contribution made by the Business Firm or Individual during its taxable year to programs or projects approved and/or certified for Tax Credit status by the Department.

011. Program Guidelines; Other Programmatic Requirements.

011.01 The Department may develop program guidelines to aid the Department in administering the Act.

Title 85 - NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT

Chapter 4 - Microenterprise Development Act

The Nebraska Department of Economic Development, under the authority of, and compliance with Sections 81-1295 through 81-12, 105 of the Nebraska Revised Statutes Supplement, 1997, promulgates the following Microenterprise Development Act Rules and Regulations as prescribed and are effective until revoked or amended.

001 Definitions

001.01 Act. The Act means the Microenterprise Development Act.

001.02 Commercial Lending Organization. Commercial Lending Institutions means any financial institution defined in subsection (4) of 8-157 of the Nebraska Revised Statutes, 1991 .

001.03 Department. The Department means the Nebraska Department of Economic Development.

001.04. Director. The Director means the Director of the Nebraska Department of Economic Development.

001.05 Microenterprise. Microenterprise means any business whether new or existing with five or fewer employees full time employees and includes startup, homebased and self-employed businesses.

001.06 Microloan Delivery Organization. Microloan Delivery Organizations means any community based or nonprofit program which has developed a viable plan for providing training, access to financing and technical assistance for microenterprise and which meets the criteria and qualification established for the Act.

001.07 Operating Costs. Operating costs means the costs associated with administering a loan, a loan guaranty, a revolving loan program, or providing for business training and technical assistance to a microloan recipient.

001.08 Program. Program means the Microenterprise Partnership Program.

001.09 Statewide Microlending Support Organization. A Statewide Microlending Support Organization means any community based or nonprofit organization which has a demonstrated capacity and a plan for providing administering grants or loans to microloan delivery organizations.

002 Needs Identified in the Act

002.01 Encourage Microenterprise entrepreneurship. The Act identifies a need to encourage microenterprise entrepreneurship for microenterprise development.

002.02 Create employment. The Act identifies a need to create employment and employment opportunities in areas of chronic economic distress and in low income urban and rural areas.

002.03 Lack of credit sources. The Act declares that Nebraska's microenterprises often do not have access to commercial sources of credit because of a lack of business experience, training and or collateral to secure business loans, or business records to demonstrate their loan repayment potential.

003. Purposes Identified in the Act.

003.01 Creation of Microenterprises. The Department is to provide funding which will foster the creation of microenterprises throughout the state.

003.02 Coordinating Office. The Act establishes the Department as the coordinating Office for the facilitation of microlending and microenterprise development in the state. This Office will facilitate the development of a permanent, statewide infrastructure of microlending support organizations to serve Nebraska microenterprise and self employment sectors.

004 Eligible Applicants under the Act.

004.01 Microloan Delivery Organization. Any community based or nonprofit program which has developed a viable plan for providing training, access to financing and technical assistance for microenterprises and which meets the criteria and qualifications established for in the Act.

004.02 Regional Microlending Delivery Organizations, which provide services throughout a region, a county or several units of governments are eligible to receive funding under the Act.

005 Grant Amount. The Department will provide up to \$25,000 in funds appropriated under this Act for each qualified Microenterprise Delivery Organization. approved by the Evaluation Committee. For any funds used to establish a revolving loan fund or guaranty funds, 50% of such program funds must be used for microloans which do not exceed \$10,000.

006 Purposes for which Grants made by the Department may be used for as established in the Act.

006.01 Grants may be used to satisfy matching funds requirements for other federal or private grants which are made to Microloan Delivery Organizations.

006.02 Grants made by the Department may be used to establish a revolving loan fund from which the Microloan Delivery Organizations may make loans to microenterprises.

006.03 Grants made by the Department may be used to establish a guaranty fund from which the Microloan Delivery Organizations may

guarantee loans made by commercial lending institutions to microenterprises.

006.04 Grants made by the Department to Microloan Delivery Organizations may be used to provide funding for the operating costs of microloan delivery organizations.

007 Application Process and Evaluation.

007.01 Application. All eligible Microenterprises and Microenterprise Delivery Organizations will submit an application to the Department for review and approval. The application will be evaluated based upon the criteria established in the Act.

007.02 Evaluation Committee. Applications will be evaluated by a Departmental committee. This committee will be appointed by the Director, or their designee, and will consist of representatives from the Department, banking industry, regional organizations, councils of governments and others as determined by the Director.

Where funds under this Act are leveraged with non-state funds of a Statewide Microlending Support Organization, the Director may authorize integrating Program procedures and evaluation committee members with that of the Statewide Microlending Delivery Organization.

007.03 Evaluation Criteria. Applications made to the Department by Microloan Delivery Organizations may be evaluated based on the following criteria established in the Act.

007.03A The Microloan Delivery Organization's plan for providing business development services and microloan loans to microenterprises. This plan must include a comprehensive scope of services and coordination of services and loans by the Microloan Delivery Organization with commercial lending institutions.

007.03B All geographic areas and regions of the state, including both urban and rural communities, neighborhoods should be considered.

007.03C The ability of the Microloan Delivery Organization to provide for business development in areas of chronic economic distress and low income regions of the state.

007.03D The ability of the Microloan Delivery Organization to provide business training and technical assistance to microloan clients.

007.03E The ability of the Microloan Delivery Organization to monitor and provide financial oversight of the recipients of the micro loans.

007.03F The ability of the Microloan Delivery Organization to have sufficient sources of operating funds presently and in the future.

007.03G The ability of the Microloan Delivery Organization to match granted funds. Granted Funds must be matched by nonstate funds equivalent in money or in kind equal to each one dollar for each one dollar of the grant funds requested. Such matching funds can come from any nonstate source, including private foundations, federal or local governments sources, quasi-governmental entities or commercial lending institutions, or any other funds whose source does not include funds appropriated from the Legislature.

007.03H At least fifty percent of the microloans must be disbursed by the Microloan Delivery Organizations in microloans which do not exceed ten thousand dollars.

008 Engage in Contractual Relations.

The Act enables the Department to engage in the contractual relationship with a Statewide Microlending Support Organization which has the capacity to administer grants subject to the requirements of the Act and where such relationships would leverage additional nonstate support funds.

008.01 Funds granted to any Statewide Microlending Organizations must be matched by nonstate funds equivalent in money or in kind equal to one dollar for each one dollar of grant funds requested. Such matching funds can come from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities or commercial lending institutions, or any other funds whose source does not include funds appropriated from the Legislature.

008.02 The Act requires that no greater than 10% of the appropriate or contracted funds are to be used by the Department or the Statewide Microlending Support Organization for operating and administration expenses required for this Program.

009 Reporting Requirements.

The Department will submit an annual report to the Governor and the Legislature on or before January 1 of each year which will include, but not be limited to, a description of the demand for the program from microenterprises and grant recipients in Nebraska, a listing of the recipients and amount of grants made pursuant to the Microenterprise Development Act in the previous fiscal year, the impact of the grants, a description of the partnership between commercial lending institutions and microloan delivery organization that have resulted from grants made by the program and a evaluation of the program's performance based on the documented goals of the recipients. The Department may require program recipients to provide periodic performance reports to enable the Department to fulfill the requirements of the reports to the Legislature.

010. Nondiscrimination.

All recipients of the funds granted under this Act must adhere to all state and federal civil rights rules and regulations. Recipients under this Act must agree that they will not discriminate based upon race, sex, creed, color, age national origin and disability.

