

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

#### CHAPTER 2. CORPORATION COMMISSION – FIXED UTILITIES

#### PREAMBLE

**1. Sections Affected**

Article 1  
R14-2-106

**Rulemaking Action**

Amend

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 40-202, 40-203, 40-321, 40-441, and 40-442 et seq.

Constitutional authority: Arizona Constitution, Article XV

Implementing statute: Not applicable

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 675, February 2, 2001

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Robert J. Metli  
Commission Counsel

Address: Corporation Commission  
Legal Division  
1200 West Washington Street  
Phoenix, Arizona 85007

Telephone: (602) 542-3402

Fax: (602) 542-4870

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

1. Staff is proposing amendments to R14-2-106. Commission color code to identify location of underground facilities. The amendment will update this rule to incorporate the most recent national industry standards and practices for marking reclaimed water systems.
2. The amended rule clarifies specific underground facilities to be marked designated colors to include updated technology and terms thereof.
3. The proposed revision also includes addition of the color purple for reclaimed water systems as a separate, distinguishable underground facility to be marked in compliance with state laws.

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**6. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

In March 2000, the City of Tucson, Tucson Water Department submitted a formal request to the Corporation Commission Safety Division on behalf of Arizona Blue Stake, industry companies and public service corporations, to amend the color code for marking underground facilities. The request followed two years of conferencing to determine the best preventive means of reducing the possibilities of cross-connecting drinkable water systems with reclaimed water systems.

In April of 1999, the American Public Works Association (APWA) approved the color purple for identification of reclaimed water. The Office of Pipeline Safety has reviewed the matter and finds substantial evidence of statewide and industry support. The Commission Staff believes it would be in the best interest and safety of the public to initiate this rulemaking proceeding.

**7. The preliminary summary of the economic, small business, and consumer impact:**

Small Business Subject to the Rules: The amended rule will have no effect upon consumers or users of the underground utilities being provided by regulated public utilities as they presently are required to be in compliance with all standards, but, this will benefit consumers, users and the general public by additional clarification of underground water systems.

**8. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Terry Fronterhouse, Chief  
Office of Pipeline Safety

Address: Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Telephone: (602) 542-7275

Fax: (602) 542-7254

**9. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: To be provided by Hearing Division pursuant to Open Meeting.

Time: To be provided by Hearing Division pursuant to Open Meeting.

Location: Corporation Commission Hearing Room, 1200 West Washington Street, Phoenix, Arizona

Nature: Public Comment Hearing (oral and written comments accepted)

**10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**11. Incorporations by reference and their location in the rules:**

None

**12. The full text of the rules follows:**

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND  
ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION – FIXED UTILITIES**

**ARTICLE 1. GENERAL PROVISIONS**

R14-2-106. Commission Color Code to Identify Location of Underground Facilities

**ARTICLE 1. GENERAL PROVISIONS**

**R14-2-106. Commission Color Code to Identify Location of Underground Facilities**

**A.** If the location of an underground facility is marked with stakes, paint or in some customary manner pursuant to A.R.S. § 40-360.21.13, the facility owner will use the following color code:

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<u>Facility Type</u>	<u>Specific Color</u>
Electric Power Distribution and Transmission.	Safety Red
Gas Distribution and Transmission; Oil Products Distribution and Transmission; Dangerous Materials, Product Lines.	High Visibility Safety Yellow
Telephone and Telegraph System; Cable Television.	Safety Alert Orange
Fiber Optics Communication Lines.	The Letter "F" in Safety Alert Orange
Water Systems; Slurry Pipelines.	Safety Precaution Blue
<u>Reclaimed Water Systems.</u>	<u>Purple</u>
Sanitary Sewer Systems.	Safety Green

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**UNACCEPTABLE FACILITY LOCATION COLORS:**

Florescent Pink – This shall be considered a land surveyor marking.

White – This shall be reserved for excavator markings.

- B.** Excavators and Underground Facility Owners shall consider use of the color fluorescent pink to be indicative of land survey markings and not location markings for any underground facility. Surveyors may place aerial photogrammetric markings (targets) using the color white, such markings shall have a fluorescent pink dot not less than two inches in diameter placed within one foot of any edge of the aerial marking. Fluorescent pink shall not be used by excavators or underground facility owners.
- C.** Excavators making markings pursuant to Arizona Revised Statute Ann. § 40-360.22.C are required to use the color white.
- D.** Colors similar to those listed in R14-2-106.A through R14-2-106.C shall not be used for other than their listed purpose.

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**TITLE 15. REVENUE**

**CHAPTER 2. DEPARTMENT OF REVENUE**

**INCOME AND WITHHOLDING TAX SECTION**

**SUBCHAPTER E. TAX EXEMPT ORGANIZATIONS**

**PREAMBLE**

**1. Sections Affected**

R15-2E-101  
R15-2E-201  
R15-2E-202  
R15-2E-203  
R15-2E-301

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. §§ 43-1201, 43-1202, 43-1211, 43-1212, 43-1213, 43-1214, 43-1215, 43-1216, 43-1231, and 43-1242

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 1916, May 26, 2000

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**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jim Bilski  
Tax Analyst

Address: Tax Research & Analysis Section  
Arizona Department of Revenue  
1600 West Monroe  
Phoenix, AZ 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

E-mail: BilskiJ@revenue.state.az.us

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

These rules describe the circumstances for denying an organization's tax exempt status, how the organization can regain its tax exempt status, and the return filing requirements for tax exempt organizations. As a result of legislative changes and the 5-year review of 15 A.A.C. 2, the Department is proposing to amend the rules to conform to current statutes, remove language that is obsolete or that is repetitive of statute, and conform to current rulemaking guidelines.

**6. Reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

It is expected that the benefits of the rules will be greater than the costs. The amendment of these rules will benefit the public by making the rules conform to current statute, removing language that is obsolete or that is repetitive of statute, rearranging the rules in a more logical manner and conforming to current rulemaking guidelines, which will make the rules more accurate as well as clearer and easier to understand. The Department will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense in the amendment of these rules.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Jim Bilski  
Tax Analyst

Address: Tax Research & Analysis Section  
Arizona Department of Revenue  
1600 West Monroe  
Phoenix, AZ 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

E-mail: BilskiJ@revenue.state.az.us

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed in paragraphs 4 and 9. Pursuant to A.R.S. § 41-1023(C), the Department will schedule oral proceedings if 1 or more individuals file written requests for oral proceedings within 30 days after the publication of this Notice.

A person may submit written comments regarding the proposed rulemaking action by submitting the comments no later than 5:00 p.m., March 5, 2001, to the person listed in paragraphs 4 and 9.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 15. REVENUE**

**CHAPTER 2. DEPARTMENT OF REVENUE**

**INCOME AND WITHHOLDING TAX SECTION**

**SUBCHAPTER E. TAX EXEMPT ORGANIZATIONS**

**ARTICLE 1. ORGANIZATIONS EXEMPT FROM TAX**

R15-2E-101. Feeder Organization Not Exempt from Tax

**ARTICLE 2. DENIAL OF EXEMPT STATUS**

R15-2E-201. Denial of Exemption ~~to Organizations Engaged in Prohibited Transactions~~

R15-2E-202. ~~Determination of Reasonable Accumulation of Income~~ Denial of Exemption Under Section 43-1214 in the Case of Certain Organizations Accumulating Incomes

R15-2E-203. ~~Procedure to Recover Exempt Status~~ Future Status of Organization Denied Exemption

**ARTICLE 3. RETURNS OF EXEMPT ORGANIZATIONS**

R15-2E-301. Returns of Tax Exempt Organizations

**ARTICLE 1. ORGANIZATIONS EXEMPT FROM TAX**

**R15-2E-101. Feeder Organization Not Exempt from Tax**

**A.** ~~In determining the primary purpose of an organization, For~~ for purposes of A.R.S. § Section 43-1202, all circumstances must be considered, including the size and extent of the trade or business ~~and as well as the size and the extent of those activities of the that organization that are specified in the applicable paragraph of A.R.S. § Section 43-1201 in determining the primary purpose of an organization.~~

1. If a subsidiary organization of a tax-exempt parent organization ~~is~~ would itself be exempt on the ground that the activities of the organization are an integral part of the exempt activities of the parent organization, the exemption will remain valid ~~not be lost even if~~ because, as a matter of accounting between the 2 organizations, the subsidiary derives a profit from the dealings with the parent organization; ~~for example,~~

Example: ~~A~~ a subsidiary organization that is operated for the sole purpose of furnishing electric power used by the tax exempt parent organization is exempt from tax. ~~which is a tax-exempt educational organization in carrying on its educational activities.~~

2. ~~However, If the primary purpose of a subsidiary organization is not exempt from tax if it is operated for the primary purpose of carrying on a trade or business that which is would be an unrelated trade or business, unrelated to the parent's exempt activities, if regularly carried on by the parent organization. then the subsidiary organization is not exempt from tax.~~

Example: ~~For example, if~~ If a subsidiary organization is operated primarily for the purpose of furnishing electric power to consumers other than the tax exempt parent organization ~~and the subsidiary organizations of the tax-exempt parent, then it the subsidiary organization~~ is not exempt since such business would be an unrelated trade or business if regularly carried on by the parent organization. Similarly, if the subsidiary is owned by several unrelated exempt organizations and is operated for the purpose of furnishing electric power to each of them, it is not exempt since such business would be an unrelated trade or business if regularly carried on by any 1 of the tax-exempt organizations.

**B.** In certain cases, an organization that carries on a trade or business for profit but is not operated for the primary purpose of carrying on such trade or business is subject to tax under A.R.S. Section § 43-1231.

**ARTICLE 2. DENIAL OF EXEMPT STATUS**

**R15-2E-201. Denial of Exemption to Organizations Engaged in Prohibited Transactions**

- A.** The prohibited transactions enumerated in Section 43-1213, are in addition to and not in limitation of the restrictions contained in Section 43-1201, paragraph (4). Even though an organization has not engaged in any of the prohibited transactions referred to in Section 43-1213, it still may not qualify for tax exemption in view of the general provisions of Section 43-1201.
- B.** An organization described in Section 43-1201 which has engaged in any prohibited transaction after December 31, 1953, shall not be exempt from taxation under Section 43-1201 for any taxable year subsequent to the taxable year in which there is mailed to it a notice in writing by the Department that it has engaged in such prohibited transaction. Such notification by the Department shall be by registered mail to the last known address of the organization. However, notwithstanding the requirement of notification by the Department, exemption shall be denied with respect to any taxable year if such organization during or prior to such taxable year commenced the prohibited transaction with the purpose of diverting income or corpus from the exempt purposes and such transaction involved a substantial part of the income or corpus of such organization. The term, "taxable year" for the purpose of this section means the established annual accounting period of the organization; or if the organization does not have such an established annual accounting period, the "taxable year" of the organization means the calendar year.
- A.** The Department shall deny exempt status to an organization described in A.R.S. § 43-1201(4), if the organization:
1. Violates the restrictions in A.R.S. § 43-1201(4), or
  2. Engages in any of the prohibited transactions listed in A.R.S. § 43-1213, or
  3. Has unreasonable accumulations of income as defined in A.R.S. § 43-1214 at the end of the taxable year.
- B.** Subsections (A)(2) and (A)(3) do not apply to organizations listed in A.R.S. § 43-1215.
- C.** The Department shall send written notification to an organization that is denied exemption under subsection (A). The Department shall send the notification by registered mail to the last known address of the organization.

**R15-2E-202. Determination of Reasonable Accumulation of Income Denial of Exemption Under Section 43-1214 in the Case of Certain Organizations Accumulating Incomes**

- ~~**A.** Any organization described in Section 43-1201 other than an organization described in Section 43-1215 shall not be exempt under Section 43-1201 if the amounts accumulated out of income during the taxable year or any prior taxable years but not actually paid out for exempt purposes by the end of the taxable year are unreasonable. Amounts accumulated from income become unreasonable when more income is accumulated than is needed or when the duration of the accumulation is longer than is needed in order to carry out the purpose constituting the basis for the exemption of the organization. Furthermore, an organization shall not be exempt under Section 43-1201 if amounts accumulated from income are used to a substantial degree for purposes or functions other than those constituting the basis for the organization's exemption or if such amounts are invested in such a manner as to jeopardize the carrying out of the purpose of function constituting the basis for the exemption of the organization.~~
- ~~**B.** The term, "income", for the purpose of A.R.S. Section § 43-1214, "income" is determined means gains, profits, and income determined under the same principles applicable used to determine in determining the earnings or profits of a corporation. The amount accumulated from income during the taxable year or any prior taxable year shall be determined under the principles applicable in determining the accumulated earnings or profits of a corporation. The following are not included in determining the reasonableness of an accumulation of from income, the following will be disregarded:~~
1. ~~The accumulation of gain on the sale or exchange of a donated asset to the extent that such gain represents the excess of the fair market value of such assets when acquired by the organization over the substituted basis in the hands of the organization; and~~
  2. ~~The accumulation of gain on the sale or exchange of property held for the production of investment income such as dividends, interest, and rents where the proceeds of that sale or exchange are within a reasonable time reinvested in property acquired and held in good faith for the production of investment income.~~
- ~~**C.** Whether the conditions specified in A.R.S. Section § 43-1214 are present in any case must shall be determined from all the facts. The conditions specified in A.R.S. Section § 43-1214 may result from the use of only 1 organization or of a chain of 2 or more organizations.~~

**R15-2E-203. Procedure to Recover Exempt Status Future Status of Organization Denied Exemption**

- A.** Any organization denied exemption under A.R.S. Section § 43-1201(4), due to by reason of the provisions of A.R.S. Section §§ 43-1211 or 43-1212 may file a new claim for exemption with the Department, in any taxable year following the taxable year in which notice of denial of exemption was issued. The claim shall must contain or have attached in addition to the information generally required of an organization claiming exemption under A.R.S. Section § 43-1201 and an affidavit that the organization has ceased engaging in any transactions prohibited by A.R.S. Section § 43-1213 and will not knowingly engage in a prohibited transaction. An authorized prepared by a principal officer of that the organization shall sign the authorized to make that affidavit.

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- B. ~~If the Department has determined that such organization has ceased engaging in any transactions prohibited by Section 43-1213 and the Department is satisfied that such organization will not knowingly again engage in a prohibited transaction and that the organization also satisfies all other standards under Section 43-1201, it~~ The Department shall notify the organization in writing if it has satisfied all exemption requirements. The organization in such case will be exempt subject to the provisions of Sections 43-1201 and 43-1211 with respect to the taxable years subsequent to the taxable year in which such claim is filed. Section 43-1216 contemplates that an organization denied exemption because of the terms of such section will be subject to taxation for at least 1 full taxable year. The term "taxable year" for the purposes of this section means the established annual accounting period of the organization; or if the organization does not have an established annual accounting period, the "taxable year" of the organization means the calendar year.

**ARTICLE 3. RETURNS OF EXEMPT ORGANIZATIONS**

**R15-2E-301. Returns of Tax Exempt Organizations**

- A. ~~Requirement of annual returns. Every organization required to file a return under A.R.S. § 43-1242 except those set forth in Section 43-1242(A), exempt from tax under Section 43-1201 having gross income in excess of \$25,000 irrespective of whether it is chartered by, or affiliated or associated with any central parent, or any other organization except organizations specifically exempted from filing annual returns shall file annually with the Department a return of information specifically stating the items of gross income, receipts, and disbursements, and such other information as may be prescribed by the Department in the instructions on the form or issued by it therewith. Returns shall~~ file the return be on the basis of the established annual accounting period of the organization. ~~If~~ Where the organization does not have ~~such~~ an established accounting period, ~~then~~ such the return is due ~~shall be~~ on the basis of the calendar year.
- B. ~~Date for filing annual returns. The~~ Tax exempt organizations shall file the Arizona exempt organization annual information returns ~~return or a copy of its equivalent federal information return of information shall be filed to the Department on~~ or before the 15th day of the 5th full calendar month following ~~after~~ the close of the period for which the return is required to be filed taxable year.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 1. DEPARTMENT OF COMMERCE**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

Article 1	Amend
R20-1-101	Amend
R20-1-102	Amend
R20-1-103	Amend
R20-1-104	Amend
R20-1-105	Repeal
R20-1-105	New Section
R20-1-106	Renumber
R20-1-106	New Section
R20-1-107	Renumber
R20-1-107	Amend
R20-1-108	Renumber
R20-1-108	Amend
R20-1-109	Renumber
R20-1-109	Amend
R20-1-110	Renumber
R20-1-110	Amend
R20-1-111	Repeal
R20-1-111	Renumber
R20-1-111	Amend
R20-1-112	Repeal
R20-1-112	New Section
R20-1-113	Repeal
R20-1-113	Renumber

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R20-1-113	Amend
R20-1-114	Repeal
R20-1-114	Renumber
R20-1-114	Amend
R20-1-115	Repeal
R20-1-115	New Section
R20-1-116	Renumber
R20-1-116	Amend
R20-1-117	Renumber
R20-1-117	Amend
R20-1-118	Renumber
R20-1-118	Amend
R20-1-119	Renumber
R20-1-120	Renumber

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-1504(B)(4)

Implementing statutes: A.R.S. §§ 41-1541, 41-1542, 41-1543, 41-1544, and 41-2704

**3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 2734, July 21, 2000

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Joan Laurence  
Address: Arizona Department of Commerce  
3800 North Central Ave., Suite #1500  
Phoenix, Arizona 85012  
Telephone: (602) 280-8181  
Fax: (602) 280-1358

**5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**

This rulemaking coincides with the Five-Year Review of these rules. The Governor's Regulatory Review Council approved that review at the January, 2001 meeting. Generally, a rulemaking relating to a Five-Year Review would not be initiated until after Council's consideration of the review report. However, due primarily to statutory changes discussed below, these rules require immediate modification to allow implementation of the amended training program when funding becomes available, which is estimated to be April, 2001. Therefore this rulemaking includes actions promised in the Five-Year Review, including bringing all rules into compliance with current rulewriting standards.

The Arizona legislature passed HB 2262 during the 2000 Session, Laws 2000, Ch. 383. This legislation made significant amendments to the statutes implemented by these rules, including the following.

The title of the program was changed from "Work Force Recruitment and Job Training Program" to "Arizona Job Training Program" to reflect the fact that recruitment assistance is not part of the program. Statutory references to recruitment were deleted. This rulemaking changes the name of the program and revises the rules to incorporate statutory modifications.

New and expanding businesses and businesses undergoing economic conversion now must contribute monies or other appropriate resources equal to at least 25% of the estimated cost of proposed training. Prior to the amendment, the Director and Job Training Council had authority to reduce this percentage under limited circumstances. This rulemaking deletes the Section that covered exceptions to the 25% requirement.

The program was expanded to include incumbent worker training. Required business contribution for such training is 50% of the estimated cost. The proposed rules address incumbent worker training.



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The legislation imposed a requirement that a business receiving monies under the program pay compensation at least equal to 100% of the average annual wage for the applicable county (excluding mining and government wages) if the business employs 300 or more employees and is located in a county with a population greater than 400,000. A business with fewer than 300 employees, or located in a rural area, or located in an Enterprise Zone must pay compensation at least equal to 90% of the average annual wage for the applicable county (excluding mining and government wages). This rulemaking implements these requirements.

In December 1999, the Arizona Attorney General issued an opinion holding that program funds can be used only for costs related to job training. Funds may not be used to reimburse businesses for costs relating to recruitment of new employees. The proposed rules implement and are consistent with this opinion.

The current rules were adopted in 1995. They provide for a process where the Director may review the Director's decision and make a final determination that may be appealed to Superior Court. The entire review process is implemented through the current rules. In 1999, A.R.S. § 41-2704 became effective and now controls the protest and appeal process relating to the award or proposed award of grants. The statute provides that the head of a state governmental unit may resolve a protest of the award or proposed award and that an appeal may be made to the Director of the Department of Administration. The protest and appeal must be resolved in accordance with rules of procedure adopted by the Director of the Department of Administration (R2-7-901 through R2-7-937). This rulemaking contains revisions to comply with the procedural and substantive requirements of § 41-2704.

This rulemaking revises definitions to reflect statutory and other changes in the program and to cover terms appearing in this Article. Application content and procedures are revised. Eligibility criteria is extensively revised including the sliding point scale. Determination of grant amount, training plan requirements, selection criteria, and allowable and excluded project cost provisions are revised. The rules specify revised Statement of Understanding requirements and new or revised requirements for invoices and progress reports, final evaluation forms, and the Department's annual report. Monitoring and repayment provisions are revised.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Arizona Job Training Program was established to provide training for specific employment opportunities with qualified new and expanding businesses and businesses undergoing economic conversion. This is accomplished by awarding grants to businesses in the form of reimbursement for providing eligible training to employees. A business must match at least 25% of the estimated cost of proposed training through contributions of cash or appropriate resources. For incumbent worker training the required match is 50%. During the 2000 Session the legislature modified the program and appropriated \$ 3,500,000 for it in FY 2000-2001. This legislation included enactment of a job training employer tax effective January 1, 2001 (A.R.S. § 23-769). That provision imposes on employers a tax equal to one-tenth of one percent of taxable wages paid to an employee. The legislature intended that beginning in FY 2001-2002 the program will be funded from monies collected from this tax and that state general fund monies would no longer be appropriated. Program funding from this tax for calendar year 2001 is estimated to be \$12 million to \$14 million.

Participation in the training program is entirely voluntary. Most of the program's economic, small business, or consumer impact arises from statutory requirements and limitations rather than from proposed rules. Only anticipated probable impact of these rules is discussed here.

Definition of terms such as "business/company", "economic conversion", "incumbent worker", "micro-business", "new job", "remedial education", and "small business" has substantial impact on employers and employees because meeting requirements of such defined terms may determine whether an employer, an employee, or a training course is eligible for participation in the training program. (R20-1-101)

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The application process (R20-1-102) imposes minimal costs on each employer applicant in the form of time to complete an application and the provision of required documentation. Some of the documentation is quite detailed, including a training plan and a description of positions to be trained. The previous requirement for financial statements for at least 2 calendar years plus an interim statement is replaced by a credit check by the Department and the ability to request additional information if needed. This accommodates businesses operating for less than 2 years and provides a minimal savings to each applicant.

The rules provide that lay-offs involving certain positions within the past 3 years will reduce the number of positions eligible for program participation. This could have an impact on businesses ranging from minimal to substantial.

The Department will incur substantial costs for application processing and review including post-review communications.

Eligibility criteria (R20-1-104) no longer requires a business to be operational for 2 years. Any business paying into the Arizona Job Training Tax Fund is potentially eligible for program participation. The broad scope of eligibility can have a significant impact on businesses that meet program requirements.

The sliding scale used to determine whether a business qualifies for participation and used in calculation of funding amount is extensively revised. Since this scale assists in determination of eligibility and funding level, its impact on a business can be substantial. (R20-1-104)

The eligibility criteria Section requires training to be job-specific and business-specific, requires a business to make a good faith effort to leverage other workforce development programs to the greatest extent reasonably possible, and limits a business to one active grant at any time. Grants may not be used to train temporary, seasonal, contract, or outsourced personnel, or to train any person whom a business or its affiliates have employed in the six month period prior to training commencement date. These provisions could have an impact on businesses ranging from minimal to significant.

Provisions are added covering incumbent worker training (R20-1-106), including calculation of funding priority based, in part, upon average percentage of wage increase for trained workers. These provisions could have significant impact on businesses training incumbent workers and on their employees.

Selection criteria (R20-1-109) has substantial impact on businesses and their employees because meeting such criteria determines eligibility for program participation.

Classification of allowable and excluded project costs has an impact on a business' reimbursable costs that can range from minimal to significant. Certain costs such as travel and on-the-job training costs are allowable but limited. (R20-1-110)

Statement of Understanding requirements will impose moderate costs on the Department for preparation and administration. A business will incur minimal costs for processing and possibly for modification requests. (R20-1-113)

Monitoring requirements under R20-1-114 will impose significant costs on the Department. Compliance costs for a business should be minimal, and include submission of invoices under R20-1-115 and preparation of a final evaluation form under R20-1-117.

Repayment provisions (R20-1-116) could significantly impact businesses failing to meet program requirements.

The Department will incur minimal costs for drafting these rules and moderate costs for developing and printing program forms and documents.

This rulemaking will impose minimal costs on the Secretary of State for required filings and publications, and on the Governor's Regulatory Review Council for review.

Burden imposed on small businesses by this rulemaking is not significant and is necessary for effective program implementation. Small businesses may for good cause request a waiver of the electronic format requirement for progress reports under R20-1-115.

The Department considered possible methods to reduce impact on small businesses. Except as discussed in the previous paragraph, no practical alternative methods are available.

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**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Joan Laurence  
Address: Arizona Department of Commerce  
3800 North Central Ave., Suite #1500  
Phoenix, Arizona 85012  
Telephone: (602) 280-8181  
Fax: (602) 280-1358

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments may be submitted until 5:00 p.m. on March 5, 2001 to the person identified in item 4.

The Department will conduct an oral proceeding on March 5, 2001 at 9:00 a.m. at the following location for the purpose of taking oral and written testimony on the proposed rules from members of the public: Arizona Department of Commerce, 3800 N. Central Ave., Suite #1500, Phoenix, Arizona 85012. (Please call (602) 280-1352 for special accommodations pursuant to the Americans with Disabilities Act.)

The public record on the proposed rulemaking will close at 5:00 p.m. on March 5, 2001.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 1. DEPARTMENT OF COMMERCE**

**ARTICLE 1. ~~WORK FORCE RECRUITMENT AND~~ ARIZONA JOB TRAINING PROGRAM**

R20-1-101. Definitions  
R20-1-102. Application  
R20-1-103. Determination of Eligibility of a Project  
R20-1-104. Eligibility Criteria  
R20-1-105. ~~Multi-year Training Projects~~ Grant Amount  
~~R20-1-106.~~ Incumbent Worker Training  
~~R20-1-106~~ ~~R20-1-107.~~ ~~Exception to 25% Matching Fund Requirement~~  
~~R20-1-107~~ ~~R20-1-108.~~ ~~Training Plan~~  
~~R20-1-108~~ ~~R20-1-109.~~ ~~Selection Criteria~~  
~~R20-1-109~~ ~~R20-1-110.~~ ~~Allowable and Excluded Project Costs~~  
~~R20-1-110~~ ~~R20-1-111.~~ ~~Director's Decision~~  
~~R20-1-111.~~ ~~Request for Review of Director's Decision~~  
~~R20-1-112.~~ ~~Response to Request for Review of Director's Decision~~  
~~R20-1-113.~~ ~~Director's Final Determination~~  
~~R20-1-114.~~ ~~Hearing~~  
~~R20-1-115.~~ ~~Notice of Director's Final Determination~~  
~~R20-1-112~~ Protest  
~~R20-1-116~~ ~~R20-1-113.~~ ~~Statement of Understanding~~  
~~R20-1-117~~ ~~R20-1-114.~~ ~~Monitoring~~  
~~R20-1-115.~~ Invoices and Progress Reports  
~~R20-1-118~~ ~~R20-1-116.~~ ~~Repayment~~  
~~R20-1-119~~ ~~R20-1-117.~~ ~~Final Evaluation Form~~  
~~R20-1-120~~ ~~R20-1-118.~~ ~~Final Evaluation Criteria~~ Annual Report

**ARTICLE 1. ~~WORK FORCE RECRUITMENT AND~~ ARIZONA JOB TRAINING PROGRAM**

**R20-1-101. Definitions**

In this Chapter, unless the context otherwise requires.

1. “APNE” means Arizona Partnership for the New Economy or its successor organization.
- ~~1-2.~~ “Applicant” means a business seeking financial assistance from the Program submitting an application to the Arizona Department of Commerce for training assistance through the Arizona Job Training Program.
3. “Agreement” means the written agreement between a business entity that receives program funding and its training provider for the purpose of establishing and implementing a training project.
4. “Average county wage/salary” means the most recent average county wage/salary existing in the county in which the jobs will be created by the business, as calculated annually by the Arizona Department of Economic Security Research Administration Division. For purposes of this Article, the calculation shall exclude mining and government wages.
5. “Business/company” means an Arizona entity possessing its own unique Federal Employer Identification Number (F.E.I.N.#) and paying into the Arizona Job Training Tax Fund.
6. “Community college” means a postsecondary, public, community college established under Arizona Revised Statutes (A.R.S. §15-1401, et seq.).
- ~~2-7.~~ “Council” means the ~~Work Force Recruitment and~~ Arizona Job Training Council.
- ~~3-8.~~ “Corporate headquarters” means an administrative center for a business.
9. “Department” means the Department of Commerce of this state.
10. “Director” means the Director of the Department of Commerce of this state.
4. “Disadvantaged area” means an enterprise zone, an enterprise community, an empowerment zone, or a census tract where the average unemployment rate is 150% of the average annual statewide unemployment rate or the poverty rate in the area is at least 150% of the statewide poverty rate as determined by the most recent published Arizona Department of Economic Security statistics.
- ~~5-11.~~ “Economic conversion” means market-driven changes made by a business in the way it produces and sells its major products and services, or in its target markets or basic technology. Such changes fundamentally alter the way the business operates or the nature of the business. Economic conversion is due mainly to structural changes in the economy or in the business’ industry sector significant and potentially devastating market-driven changes in the way a company produces or sells its major products or services. Such changes happen suddenly (2 years or less) and substantially alter the way the market operates. Such changes are due mainly to structural changes in the economy or in the company’s unique market niche. Technology or software improvements, and changes in company management, accounting, or office functions do not qualify as economic conversion.
12. “Economically depressed area” means an “enterprise zone”.
6. “Empowerment Zone” means an area the Federal Government designates under Public Law 103-66 to provide incentives for a business to locate within the zone’s boundaries.
7. “Enterprise Community” means an area the Federal Government designates under Public Law 103-66 to provide incentives for a business to locate within the community’s boundaries.
- ~~8-13.~~ “Enterprise Zone” means an area established under A.R.S. § 41-1552 to provide incentives for a business to locate within the zone’s boundaries.
14. “Equipment” includes computers and software.
- ~~9-15.~~ “Fiscal year” means a year that begins on July 1 and ends on June 30.
10. “Full benefit package” means a group of employment incentives offered to employees that includes group medical and dental coverage, disability, and a retirement plan regardless of whether the employer subsidizes the cost of such a package.
16. “Funded business” or “funded company” means a business that has been approved for funding and has timely returned an executed Statement of Understanding.
- ~~11-17.~~ “Good cause” means a delay or situation caused by circumstances beyond the control of the party requesting an extension of time or other relief.
18. “Grant” means funds awarded to a business for Program approved training costs, which do not have to be repaid, except if the business fails to meet its commitments and obligations as set forth in the application, training plan, or Statement of Understanding.
- ~~12-19.~~ “GSPED” means the Governor’s Strategic Partnership for Economic Development.
- ~~13-20.~~ “GSPED Cluster” means an industry category identified by the GSPED. A cluster is a concentration of firms across several industries that share common economic foundation needs.
- ~~14-21.~~ “Health care plan” means group medical coverage provided for employees regardless of whether the employer subsidizes the cost of such a package.
22. “Hourly employee” means an employee compensated based on number of hours worked.

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23. “Incumbent worker” means a person employed by an applicant prior to the date applicant submits an application requesting funding for training that person.
24. “In-kind contribution” means non-cash contribution of goods, services, technical assistance, machinery, tools, equipment, training space, or similar resources to the training program, and may include only those current or newly incurred costs that are directly related to undertaking the proposed training.
25. “Management fees” means costs incurred by the company for management of a grant.
26. “Match” means monies or other appropriate resources including technical assistance, machinery, or training space in an amount equal to 25% or more of the estimated cost of proposed training. Costs associated with recruitment or hiring shall not be included in the match amount.
27. “Micro-business” means a business with fewer than 26 employees including employees projected to be hired under the training project receiving a grant under this Article.
15. Minority-owned business” means a business at least 51% owned and operated by 1 or more citizens of the United States who are designated a minority or socially disadvantaged as defined by 13 CFR 124.105(b)
16. “Modified average county wage” means 80% of the total wages in a county divided by the number of employed persons in that county as reported by the Department of Economic Security.
- 17-28. “Monitoring” means tracking the applicant’s execution of an approved project.
18. “Multi-year training project” means a project that spans 24 or more consecutive months.
- 19-29. “Net new jobs” means total number of employment positions new jobs that are created after award of program training assistance which and that qualify under the Program.
- 20-30. “New Job job” means an employment position in a new or expanding business or in a business undergoing economic conversion created after the award of program training assistance which that qualifies under the Program. This does not include the jobs of recalled workers, replacement jobs, other jobs that formerly existed in the business at any of its locations, or any job that existed in that business during the 6-month positions that formally existed in the business during a 36 month period prior to the date the business submits an application for training assistance from the Program.
31. “On-the-job training” means training provided by an employee of an applicant while that employee is performing regular job activities and the trainee observes, assists, or receives instruction from that employee.
32. “Part-time job” means a job that is less than 30 hours per week.
33. “Plan” means the Arizona Job Training Plan that is prepared by the training provider or the applicant. The plan must include the training analysis, design, costs, and scope of work to be performed.
- 21-34. “Program” means the Work Force Recruitment and Arizona Job Training Program of the Department.
35. “Program criteria” means qualifications that an applicant shall meet to be eligible for Program funding. Program criteria shall be met prior to the Department’s acceptance of an application.
- 22-36. “Program training assistance” means financial assistance provided under the Program, covering costs related to job training assistance to cover authorized, eligible training costs.
- 23-37. “Program Manager” means the individual designated by the Director as responsible for managing the Program.
- 24-38. “Project” means a specific, customized training project established as a result of an agreement between a training provider and a business for the purpose of providing training services authorized by the Program and proposed for program training assistance by the applicant.
39. “Project start date” means an applicant’s project start date as designated in the Statement of Understanding.
40. “Qualified training provider” means a training provider declared by the applicant as being competent in the field.
25. “Remedial education” means instruction in basic skills such as reading, writing, and arithmetic not directly related to the performance of a given job.
26. “Resources” means cash or non-monetary contributions used to offset eligible costs of the project which may include personnel, equipment, and materials, among others.
- 27-41. “Rural area” means any location in any Arizona county except the counties of Pima and Maricopa. Within Maricopa and Pima counties, a rural area is any location within an unincorporated area, or any location inside the incorporated limits of a city or town having a population of less than 20,000 persons as determined by the most recent decennial or special census, whichever is more recent. either a county with a population of less than 400,000 persons according to the most recent United States decennial census or a census county division with less than 50,000 persons in a county with a population of 400,000 or more persons according to the most recent United States decennial census.
42. “Salaried employee” means an employee compensated at a fixed amount that is not calculated from the number of hours worked.
43. “Site visit” means an inspection of the location at which approved training is being conducted, either on the company’s premises or at an off-site training facility.
44. “Small business” means a business with fewer than 300 employees company wide.

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- ~~28-45.~~ “Statement of Understanding” means a document signed by the Director and all parties involved in a project approved for program training assistance, specifying ~~the~~ scope of ~~the~~ work to be performed, ~~the~~ roles and contributions of each of the parties, and ~~the~~ final dollar amount of the grant award.
- ~~46.~~ “Trainee” means a participant receiving training or other services provided by a project funded by the Program.
- ~~29-47.~~ “Training” means job skill instruction given to trainees by training providers either on-the-job, in a classroom, or any combination thereof, sponsored by a business ~~or~~ employer and funded through the Program, and intended to provide ~~the~~ trainees with ~~the~~ specific skills required to perform specified jobs.
- ~~30.~~ “Training plan” means the Work Force Recruitment and Job Training Plan.
- ~~31-48.~~ “Training provider” means ~~a person or organization that provides recruitment services, training design, development of materials, training as described in the training plan, or management of project or accounts a state community college, a private postsecondary educational institution licensed under A.R.S. Title 32, Chapter 30, a community college operated by a tribal government, or other qualified training provider, including employer provided training.~~
- ~~32-49.~~ “Urban area” means any area not ~~considered to be defined as a rural or economically depressed area.~~
- ~~33.~~ “Women-owned business” means a business at which 51% or more of the ownership is by 1 or more women.

**R20-1-102. Application**

- A.** A business ~~and/or training provider~~ interested in obtaining program assistance shall contact the Department to request an application or to request a pre-application conference.
- B.** The applicant, training provider, or economic development representative shall submit a completed application form provided by the Department containing the following information:
- ~~1.~~ Business Company name, address;
  - ~~2.~~ DBA, if applicable;
  - ~~3.~~ Each principal’s or owner’s name;
  - ~~4.~~ Local contact and title;
  - ~~5.~~ Phone number;
  - ~~6.~~ Fax number;
  - ~~7.~~ E-mail address;
  - ~~2-8.~~ Federal identification number (F.E.I.N.#);
  - ~~3-9.~~ NAISC/SIC (Standard Industrial Code);
  - ~~4-10.~~ Parent Company name and address;
  - ~~5-11.~~ Business Parent Company contact, and phone number, and fax number;
  - ~~12.~~ Parent Company Federal ID# (F.E.I.N.#);
  - ~~13.~~ Applicable classifications:
    - ~~a.~~ Existing business;
    - ~~b.~~ Corporate headquarters;
    - ~~c.~~ Regional headquarters;
    - ~~d.~~ Enterprise Zone;
    - ~~e.~~ Rural area location ;
    - ~~f.~~ Urban area location;
  - ~~6-14.~~ Description of business or service provided by facility and business ownership;
  - ~~7.~~ Reason for creation of new jobs;
  - ~~8.~~ Products and services produced at the facility at which the new jobs would be located;
  - ~~9-15.~~ Number of current employees at the applicable location and company-wide, including parent company if Federal ID# is the same;
  - ~~10-16.~~ Total Number number of new and part-time jobs to be created and new hires to be trained:
    - ~~a.~~ Number of full-time jobs in period designated by company; and
    - ~~b.~~ Number of part-time jobs in period designated by company;
  - ~~11.~~ Wage and benefit information;
  - ~~12.~~ Amounts the business has spent for training salaried employees and for employees compensated on an hourly basis in each of the prior 3 years;
  - ~~13.~~ Industry groups to which the business belongs;
  - ~~14-17.~~ Numbers of individuals from the local Arizona labor force and outside the local labor force the business plans to train and hire;
  - ~~18.~~ Number of existing employees to be trained (incumbent worker or economic conversion only):
    - ~~a.~~ Number of full-time employees in period designated by company; and
    - ~~b.~~ Number of part-time employees in period designated by company;
  - ~~19.~~ Average hourly wage, including documented bonuses and commissions, for:
    - ~~a.~~ Full-time employees; and

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- b. Part-time employees;
- 20. Average annual wage, including documented bonuses and commissions, for both salaried and hourly employees listed pursuant to subsection (19);
- 21. For incumbent workers trained, average annual wage, including documented bonuses and commissions, for both salaried and hourly employees:
  - a. Immediately before training begins; and
  - b. Upon completion of training;
- 22. For economic conversion positions, average hourly wage, including documented bonuses and commissions, for:
  - a. Full-time employees; and
  - b. Part-time employees;
- 23. Average annual wage, including documented bonuses and commissions, for both salaried and hourly employees listed pursuant to subsection (21);
- 24. Does company provide health insurance benefits to employees, if yes:
  - a. Percentage paid by company; and
  - b. Attach a copy of the company health plan;
- 25. Other benefits provided to employees and the percentage paid by company;
- 26. Cluster Industries, if any, to which company belongs:
  - a. Bioindustry;
  - b. Environmental technology;
  - c. Food, fiber, and natural products;
  - d. High technology;
  - e. Minerals and mining;
  - f. Optics;
  - g. Plastics and advanced composite materials;
  - h. Senior industries;
  - i. Software and information industry;
  - j. Tourism;
  - k. Transportation and distribution;
- 15. Business' policy on affirmative action;
- 16. Estimated cost of training;
- 17. Amount of program assistance requested;
- 18. Anticipated training start date;
- 19. Anticipated completion date for training project;
- 20. Number of new employees to be trained;
- 21. Number of existing employees to be trained;
- 22. Estimated number of trainees eligible under the Job Training Partnership Act;
- 27. Training project information:
  - a. Total estimated cost of training;
  - b. Training cost per employee;
  - c. Projected start date; and
  - d. Projected completion date;
- 28. Who will design and provide the customized training:
  - a. Name;
  - b. Contact person;
  - c. Address; and
  - d. Phone number;
- 23. Why the business' training needs require a customized training approach;
- 24. Description of the needed recruitment and/or training;
- 25. Name of provider of customized training;
- 26. Description of the business' need for employee training;
- 27. Anticipated outcomes of the training to be provided;
- 29. Description of company's need for customized employee training:
  - a. Is the need driven by technological advancements, and if so, how;
  - b. How the company's competitive standing will be improved or maintained with the training assistance; and
  - c. Anticipated measurable results of the training;
- 28. How the business will contribute 25% of the total eligible training project costs;
- 29. Other funding sources for the training;
- 30. Training cost per employee, based on the request for program assistance;
- 31. Names, numbers, and average hourly wages for the job positions to be trained;

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30. Whether the company is presently receiving or has any pending proposals for any public funds, whether state or federal, for conducting training for its existing Arizona workforce, and if yes, attach an explanation including:
    - a. Name of funding agency;
    - b. Total funds awarded;
    - c. Beginning and ending dates of contracts; and
    - d. Specific training being funded;
  32. Financial statements for at least the 2 calendar years prior to the date of the filing of the application, and for 3 years if they are available, and an interim statement for the duration of current year including the calendar quarter immediately preceding the filing of the application. These financial statements shall include all profit and debt schedules prepared according to generally accepted accounting principles;
  33. Letters of commitment for business' matching funds and others participating in the funding of the training;
  34. Training plan designed by the business and the training provider;
  35. Training project budget showing the sources and uses of all resources associated with the project;
  36. If the Applicant is undergoing economic conversion, a description of the circumstances contributing to the economic conversion and a general plan for new market development.
- C.** An applicant, training provider, or economic development representative shall submit the following items with a completed application:
1. A statement of ownership declaring control of company or partnership information;
  2. A training plan, including course descriptions, designed by the company or training provider that meets the requirements of R20-1-108;
  3. A training budget detailing:
    - a. Training costs;
    - b. Any allowable additional costs associated with training classes; and
    - c. Use of other resources associated with the project, including the company's match of at least 25% (50% for incumbent worker training);
  4. A list of positions to be created or trained, whether new or economic conversion, including for each position:
    - a. Job title;
    - b. Average hourly wage rate; and
    - c. Average annual salary;
  5. A letter of commitment for the required matching funds, including an itemized list of contributions if match is to be in-kind;
  6. A Statement of Conditions, dated and executed by the Chief Executive Officer or highest ranking site official, attesting to the following:
    - a. The company is in good standing with the Arizona Corporation Commission;
    - b. The company is current with Arizona and Federal tax filings;
    - c. Unemployment and Worker's Compensation insurances are current and in force;
    - d. The company is not presently involved in any litigation that would have a material adverse affect on the company's or principals' financial condition;
    - e. Except as specified in subsection (f), in the three years preceding application date, the company has not undergone a lay-off of any position:
      - i. Requiring skills substantially similar to the skills required for a new job, or
      - ii. Requiring performance of functions substantially similar to the functions required for a new job;
    - f. If the company has undergone lay-offs covered under subsection (e), the number of new jobs eligible under the program shall be reduced by the number of positions covered under subsection (e);
    - g. The company shall maintain or increase its current level of expenditures for training and shall not count funding under the Program toward this commitment.
    - h. The company understands that the Department obtains a credit check for each applicant and, if warranted, its affiliates and principals as part of the application review; and
    - i. The Department reserves the right to request additional financial information;
  7. The Statement of Conditions shall include an acknowledgment that:
    - a. Applicant has read and reviewed the application, Program Introduction, Guidelines, criteria, and definitions;
    - b. If the applicant knowingly files with the intent to defraud or deceive a false statement in the application or supporting documents, the applicant shall be:
      - i. Guilty of the offense of filing false public records; and
      - ii. Subject to the penalties in A.R.S. §13-2407;
    - c. Applicant affirms that the statements and representations in the application and supporting documentation are true and correct as of the application date.
- D.** Applications that are incomplete or that do not include all required documentation shall not be considered for funding under this Article.



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- E. The Department shall notify an applicant of approval or decline within 30 days after the Department receives a completed application including all required documentation. If an application is declined, the Department shall indicate the reason for decline in the notice.
- F. For approved applications, the Department shall prepare and provide to the applicant an award letter indicating amount of grant.

**R20-1-103. Determination of Eligibility of a Project**

- A. The Department determines eligibility of a project by an analysis of information included in an application and information from additional sources referred to in the statute or this Article.
- B. An applicant may contact the Department to set up a pre-application conference either in person or through teleconference. At this conference, the applicant may request information on program assistance, the application process, and eligibility criteria.
- C. If the Department determines the applicant is not eligible, the Department shall send a denial letter to the applicant ~~and, if known, the training provider~~ within 30 days of the determination receipt of the completed application.
- D. ~~The Department cannot guarantee program assistance for~~ Submission of an application that meets the eligibility criteria shall not guarantee program assistance to the applicant.

**R20-1-104. Eligibility Criteria**

The Department determines whether a project is eligible for program assistance using the following eligibility criteria:

- ~~1. The applicant is operational for at least the 2 years prior to application as shown in financial records. Except as specified in subsection (2), an applicant that employs 300 or more employees and is located in a county with a population of more than 400,000 persons shall pay employees in net new job positions 100% of the applicable average county wage.~~
- ~~2. An applicant shall pay employees in net new job positions 90% of the applicable average county wage if the applicant:~~
  - a. Is a small business; or
  - b. Is located in a rural area; or
  - c. Is located in an Enterprise Zone.
- ~~2-3. The applicant documents that it has obtained or attempted to obtain other training assistance.~~
- ~~3-4. The applicant is financially sound as documented in financial statements credit reports or other financial information.~~
- ~~4-5. The applicant is paying into the Arizona Job Training Tax Fund at time of application and:~~
  - a. expanding and adding net new jobs in Arizona, undergoing economic conversion, or locating to Arizona from outside the state; or
  - b. Undergoing economic conversion.
- ~~5-6. An applicant that currently has a facility in Arizona proposes to shall use program assistance:~~
  - a. to support training activities for new employees at levels that maintain or exceed the current level of training expenditures; and
  - b. To supplement and not to replace existing training efforts.
- ~~6. The applicant applies only once in a fiscal year.~~
7. The applicant achieves a total of at least 75 points ~~of~~ on the Program's "Sliding Scale". This scale assigns points as follows (percentage calculations and fractional numbers are rounded to the nearest whole number):
  - a. 25 points for a rural or disadvantaged area, 10 points for an urban area that is not disadvantaged;
  - b. 25 points for a GSPEd cluster industry, manufacturing, warehouse distribution, newly established corporate headquarters, or research and development facility;
  - c. 40 points if the average wage of the net new employees is 160% or more of the modified average county wage, 30 points if it is 140% or more but less than 159%, 20 points if it is 120% or more but less than 139%, 10 points if it is 100% or more but less than 119%;
  - d. For a business expansion or an economic conversion: 25 points if the number of the new jobs created would be 41% or more of the existing employee base, 20 points if it is 31% or more but less than 41%, 15 points if it is 21% or more but less than 30%, 10 points if it is 11% or more but less than 20%, and 5 points if it is 10% or less;
  - e. For a new business in the state with 100 or more employees on the company wide payroll: 45 points for 1001 or more new jobs, 40 points for 801 new jobs or more but less than 1001 new jobs, 35 points for 601 new jobs or more but less than 801 new jobs, 30 points for 401 new jobs or more but less than 601 new jobs, 25 points for 201 new jobs or more but less than 401 new jobs, 20 points for 101 new jobs or more but less than 201 new jobs, and 10 points for 100 or fewer new jobs;
  - f. For a new business in the state with fewer than 100 employees on the company wide payroll: 30 points if 81 to 100 new jobs would be created, 25 points for 61 new jobs or more but less than 81 new jobs, 20 points for 41 new jobs or more but less than 61 new jobs, 15 points for 21 new jobs or more but less than 41 new jobs, and 10 points for 20 or fewer new jobs; and

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- ~~g. 15 points if the applicant provides a health care plan, and 0 points if the applicant does not provide a health care plan.~~
  - a. Location or size of business (a business may receive points under no more than one of the following three subsections):
    - i. 50 points for a micro-business (a micro-business is not eligible for points under subsection (a)(ii), subsection (a)(iii), or subsection (f)); or
    - ii. 25 points for a business located in a rural area, or in an Enterprise Zone, or with fewer than 300 employees (a business may not count more than one of the preceding classifications); or
    - iii. 10 points for a business located in an urban area that is not economically depressed;
  - b. Industry type: 10 points for a GSPED cluster industry, corporate headquarters, or research and development facility (a business may not count more than one of the preceding classifications);
  - c. 20 points for use of a consortium or industry group training plan approved by the Department;
  - d. Average wage level of new jobs relative to 100% of the average county wage:
    - i. 20 points if 100% or more but less than 110%;
    - ii. 30 points if 110% or more but less than 120%;
    - iii. 40 points if 120% or more but less than 130%;
    - iv. 50 points if 130% or more;
  - e. Number of positions being trained, Economic Conversion (EC), based on formula: number of EC jobs created divided by existing employee base equals X%:
    - i. 5 points if 10% or less;
    - ii. 10 points if between 11% and 20%;
    - iii. 15 points if between 21% and 30%;
    - iv. 20 points if between 31% and 40%; and
    - v. 25 points if 41% or greater;
  - f. Number of new jobs created, relocation and expansion, businesses with 300 or more employees company-wide:
    - i. 10 points if 50 or fewer jobs;
    - ii. 20 points if between 51 and 100 jobs;
    - iii. 25 points if between 101 and 200 jobs;
    - iv. 30 points if between 201 and 300 jobs;
    - v. 35 points if between 301 and 400 jobs;
    - vi. 40 points if between 401 and 500 jobs; and
    - vii. 45 points if 501 or more jobs;
  - g. Number of new jobs created, relocation and expansion, businesses with fewer than 300 employees company wide:
    - i. 10 points if 10 or fewer jobs;
    - ii. 15 points if between 11 and 20 jobs;
    - iii. 20 points if between 21 and 30 jobs;
    - iv. 25 points if between 31 and 40 jobs; and
    - v. 30 points if 41 or more jobs;
  - h. Percentage of pay increase for employees to be trained (incumbent worker training only):
    - i. 10 points if 5% or less;
    - ii. 20 points if between 6% and 10%;
    - iii. 35 points if between 11% and 15%;
    - iv. 40 points if between 16% and 20%; and
    - v. 50 points if 21% or greater;
  - i. Credit report:
    - i. 5 points if the credit reporting agency ranks the credit score as a “medium risk”, “low-medium risk”, or “low-risk”, or the equivalent of these rankings, on the report obtained by the Department; and
    - ii. 0 points if the credit reporting agency ranks the credit score as a “medium-high risk” or “high risk”, or the equivalent of these rankings, on the report obtained by the Department;
  - j. Benefits: 15 points if the company:
    - i. Provides a health care plan; and
    - ii. Pays at least 50% of the plan cost.
8. Training shall be provided by:
- a. A state community college;
  - b. A private postsecondary educational institution licensed under A.R.S. Title 32, Chapter 30;
  - c. A community college operated by a tribal government; or
  - d. Another qualified training provider, which may include employer provided training.
9. Job training grant funds shall not be used:

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- a. To train temporary, seasonal, contract, or outsourced employees or personnel;
  - b. To replace existing training funding; or
  - c. To train any person whom the applicant or its affiliates have employed in the 6 month period prior to training commencement date.
10. An applicant shall not have more than one active job training grant an any time.
  11. An applicant shall not receive a single job training grant for more than 10% of the estimated annual total of monies deposited in the Arizona Job Training Fund.
  12. Training funded under this Article shall be job-specific and business-specific.
  13. An applicant shall make good faith efforts to leverage other state and federal workforce development programs to the greatest extent reasonably possible.

**R20-1-105. Multi-year Training Projects Grant Amount**

An applicant with a multi-year training project may be eligible for program assistance if the applicant meets the eligibility criteria. Funding in future years is subject to the availability of funds and the Department's determination that applicant meets eligibility criteria as defined in R20-1-104 as well as the requirements of its training plan as defined in R20-1-107.

- A.** The amount of a grant funded under this Article shall be determined by the Director and may be equal to or less than the amount requested.
- B.** The Director shall determine the amount of a grant based upon:
  1. Applicant's point total on the Program's sliding scale under R20-1-104(7); and
  2. Funds availability.

**R20-1-106. Incumbent Worker Training**

This Article shall apply to incumbent worker training except to the extent that it is inconsistent with the following requirements:

1. Applicant shall submit with the application a wage progression plan for each incumbent worker including:
  - a. Wage before training; and
  - b. Wage upon completion of training, which shall be equal to or greater than the average county wage; and
2. The Department shall calculate funding priority based, in part, upon average percentage of wage increase for incumbent workers to be trained.

**R20-1-106. R20-1-107. Exception to 25% Matching Fund Requirement**

The Council and Director shall waive the requirement to contribute 25% of the eligible training costs as specified by A.R.S. § 41-1541(C) if a project meets all of the following criteria, as documented by the applicant in the application:

1. It provides a full benefit package for all employees;
  2. It falls within 1 of the following categories:
    - a. A GSPED cluster industry;
    - b. Manufacturing or warehouse/distribution;
    - e. Newly established corporate headquarters, or
    - d. Research and development facility;
  3. It locates within a rural or disadvantaged area of the state; and
  4. It will provide wages equal to at least 2 times the modified average county wage.
- A.** Except as specified in subparagraph (B), a business that receives funding under this Article shall contribute monies or other appropriate resources, including technical assistance, machinery, or training space in an amount equal to at least 25% of the proposed training's estimated cost.
  - B.** A business that receives funding under this Article for incumbent worker training shall contribute monies or other appropriate resources in an amount equal to at least 50% of the proposed training's estimated cost.
  - C.** The following resources shall not be used for a company's match:
    1. Management fees;
    2. Costs associated with recruitment of new employees; and
    3. Trainee wages and fringe benefits.

**R20-1-107. R20-1-108. Training Plan**

- A.** An applicant that the Department determines to be eligible for program assistance shall develop a training plan with the training provider.
- B.** The training plan shall outline the use of the program assistance and shall include but not be limited to the following:
  1. Description of design and analysis of training program;
    1. Trainer's name.
    2. Cost for development of training materials,
    3. Scope of work to be performed,

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4. Cost of training program,
5. Hourly cost of class,
6. Number of class hours,
- ~~5-7.~~ Timeline for the entire recruitment and training program,
- ~~6.~~ Recruitment plan,
- ~~7-8.~~ Curriculum with description of classes and class schedule, and
- ~~8-9.~~ Number of employees to be trained in each class, and
9. Cost of each class.

**~~R20-1-108.~~ R20-1-109. Selection Criteria**

- A. Final approval of program assistance for applicants determined to be eligible under these rules is based upon the specific selection criteria in A.R.S. § 41-1543 and the following:
1. Number of net new jobs created or trained;
  2. Cost of ~~recruitment and/or~~ training;
  3. ~~Financial soundness of the applicant~~ A credit check of applicant or applicant's principals and other financial information;
  4. ~~Training and job opportunities created for special target groups such as the disabled, dislocated workers, chronically unemployed, veterans, women, and minorities;~~
  - ~~5.~~ Written indications of community support; and
  - ~~6-4.~~ Amount of matching resources contributed by the applicant to the training project; ;
  5. Quality of jobs created measured by wage rates compared to average county wage;
  6. Ability to expand key industries as described in the GSPED and APNE processes;
  7. Location in a rural or economically depressed area;
  8. Ability to leverage other job training resources;
  9. Use of Arizona labor force; and
  10. Training cost per employee.
- B. ~~In selecting eligible projects to recommend for program assistance, the Department gives preference to an applicant that is:~~
- ~~1. A first-time applicant to the Program,~~
  - ~~2. Included within a GSPED cluster,~~
  - ~~3. Located in a disadvantaged area, or~~
  - ~~4. A women and/or minority-owned business.~~
- The Department shall fund eligible projects based upon date of receipt of complete applications as evidenced by the Department's date stamp.
- C. ~~To assure the Program assesses both urban and rural economic interests as required by A.R.S. § 41-1542(C)(4), the Department gives preference to applicants located in rural areas.~~
- The Department shall give preference to first time applicants when:
1. The grant process becomes competitive due to limited funding;
  2. More than one applicant has the same funding priority based upon the Department's determination under this Article; and
  3. Any of these applicants is a first time applicant.

**~~R20-1-109.~~ R20-1-110. Allowable and Excluded Project Costs**

- A. ~~Project costs for recruitment, screening of trainees for the training program, and training for jobs being created are eligible for program assistance under the Program. These~~ Costs eligible for reimbursement may include the following:
1. ~~Classified recruitment ads,~~
  2. ~~Information dissemination at a career or job fair,~~
  3. ~~Applicant intake costs such as taking applications,~~
  4. ~~Clerical functions directly related to the project,~~
  5. ~~Providing office space directly related to data base system and services,~~
  6. ~~Assessments of potential employees,~~
  7. ~~Pre-interview training of personnel and interview evaluation,~~
  8. ~~Scheduling of interviews with applicant's representatives,~~
  - ~~9-1.~~ Training program design; ;
  - ~~10-2.~~ Training materials design development; ;
  - ~~11-3.~~ Training materials purchase/ and production; ;
  - ~~12.~~ Training support materials;
  - ~~13.~~ Leased equipment essential for customized training;
  - ~~14-4.~~ Trainer costs fees; ;

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15. ~~Project management/administrative and support costs, and~~
  16. ~~5. Travel that is less than or equal to costs, excluding food and beverages, for trainer brought in to train employees as specified in the training plan and budget, not to exceed 10% of the total eligible training costs of the award;~~
  6. On-the-job training costs, including the portion of the base salary or wage earned by an employee while providing on-the-job training, not to exceed 25% of the base salary or wage earned for such time, except that if applicant provides documentation that the actual base salary or wage earned for such time and directly attributable to the provision of training is greater than 25%, reimbursement of the documented amount;
  7. Course fees;
  8. Customized software training; and
  9. Upon prior written Department approval following receipt of applicant's written request and supporting documentation, 50% of travel costs, not to exceed 10% of the award, to send employees for training when more cost effective than bringing in a trainer.
- B.** Project costs that are not eligible include trainee wages and fringe benefits, and remedial education training. Costs ineligible for reimbursement include the following:
1. Trainee wages and fringe benefits;
  2. Costs or fees to complete an application for Program assistance;
  3. Time, stress, or life management training;
  4. Recruitment expenses;
  5. Hiring expenses;
  6. Management fees;
  7. Training for officers or partners of the business;
  8. Signing bonuses;
  9. Food and beverage;
  10. Equipment and machinery;
  11. Employee search expenses;
  12. Relocation expenses;
  13. Drug and other testing associated with screening and prescreening of new employees; and
  14. Travel expenses other than those eligible under subsection (A);
- C.** Upon request of a company, the Department shall review costs not included in subsection (A) or subsection (B) for eligibility for reimbursement and shall make a determination of eligibility or ineligibility based upon applicable statutes and this Article.
- D.** A commitment for job training assistance shall not be final or effective prior to the Department providing a written notice of commitment to applicant, signed by the Director.
- E.** Net new jobs created prior to the date of the notice of commitment provided under subsection (C) shall not be eligible for funding under this Article.
- F.** Applicants and training providers shall not procure, contract for, or otherwise incur costs to be covered by funding under this Article prior to:
1. Receipt of the notice of commitment provided under subsection (C), and
  2. Execution of the Statement of Understanding by all parties.
- G.** Costs procured, contracted for, or otherwise incurred in violation of subsection (E) shall not be eligible for funding under this Article.

**~~R20-1-110. R20-1-111.~~ Director's Decision**

- A.** ~~Within 30 days of receipt by the Department of a complete application submittal including the training plan and final budget, all items and information required by statute or this Article, the Department shall complete the following steps:~~
1. ~~the The Program Manager shall recommend to the Director either an approval with recommended program assistance level or decline of program assistance;~~
- B.** ~~2. The Director makes shall make the final decision regarding approving or declining program assistance for a project and the funding level of the program assistance-~~
- C.** ~~The Director shall base the funding level based on the results of applying the selection criteria, the applicant's request, the contents of the training plan submitted under R20-1-107 R20-1-108, the award levels of similar projects funded, and the availability of funds;~~
- D.** ~~3. Within 30 days of the Director's decision, the The Department shall notify an applicant in writing whether the project was approved for program assistance; and~~
4. If the project is approved, deliver a Statement of Understanding to applicant for execution.

**~~R20-1-111.~~ Request for Review of Director's Decision**

- A.** ~~Any applicant dissatisfied with determinations of eligibility or program assistance decisions may request a review of the Director's decision.~~

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- B.** An applicant seeking review of any decision concerning eligibility or program assistance shall submit a request in writing, addressed to the Director, that includes the following information:
1. Name, address, and telephone number of the applicant;
  2. The signature of the applicant or its representative;
  3. Identification of the Director's decision requested for review;
  4. A detailed statement of the legal and factual grounds for the review including copies of relevant documents; and
  5. The form of relief requested.
- C.** An applicant shall file a request for a review within 15 days of receipt of notification by the Department of a determination of ineligibility or a funding award. If the applicant shows good cause, the Director may consider a request for review not filed timely.

**R20-1-112. Response to Request for Review of Director's Decision**

- A.** The Program Manager shall provide a written report addressing the request for review to the Director within 15 days of the receipt of the request by the Director. The report shall contain documents, findings, actions, recommendations, and any additional evidence or information necessary to determine the validity of the request.
- B.** Upon receipt of the Program Manager's report by the Director, the Director shall send a copy of the report to the applicant.
- C.** Within 15 days of the applicant's receipt of the Program Manager's report, the applicant shall file with the Director 2 copies of an applicant's report containing comments on the Program Manager's report.
- D.** The Director may grant to either the Program Manager or to the applicant an extension up to 30 days for the completion and submittal of either report. The Director shall grant an extension if the party requesting the extension makes the request in writing, describes the reason for the extension, and demonstrates good cause for needing the extension.

**R20-1-113. Director's Final Determination**

Within 30 days of the receipt by the Director of an applicant's report containing comments on the Program Manager's report, the Director shall:

1. Request additional information;
2. Hold a hearing or authorize an independent hearing officer to hold a hearing to consider the relevant facts. The hearing officer shall make written recommendations to the Director. The Director may accept, modify, or reject the written recommendations or may hold a hearing at which the Director may preside;
3. Adopt the Program Manager's report;
4. Develop a new report which includes the Director's findings and a written decision; or
5. Dismiss, upon a written determination, a request if the request does not state a valid basis for the Director to change the decision.

**R20-1-114. Hearing**

A hearing on the review of a Director's decision shall be conducted as a contested case pursuant to these rules and the Arizona Administrative Procedure Act.

**R20-1-115. Notice of Director's Final Determination**

The Director shall furnish a copy of the Director's final determination to the applicant by certified mail. The final determination shall contain an explanation of the basis of the decision and a statement that the decision may be appealed to Superior Court.

**R20-1-112. Protest**

- A.** Any interested party may file a protest of a determination, or proposed determination, of:
1. Eligibility for a grant under this Article, or
  2. Funding level of a grant under this Article.
- B.** The Director shall resolve protests under subsection (A).
- C.** An interested party may appeal the Director's resolution of a protest to the Director of the Department of Administration.
- D.** Any protest under subsection (A) or appeal under subsection (C) shall be resolved in accordance with the rules of procedure contained in 2 A.A.C. 7, Article 9.

**R20-1-116. R20-1-113. Statement of Understanding**

The Department shall send an applicant approved for program assistance a Statement of Understanding that must be signed and returned to the Department within 20 days.

- A.** For approved applications, the Department shall prepare and provide to the applicant a Statement of Understanding specifying:
- a. Scope of work;
  - b. Responsibilities of each party; and
  - c. Contributions of each party.
- B.** The applicant shall within 30 days following receipt:

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1. Sign the Statement of Understanding;
  2. Obtain the signature of all other parties, except the Department; and
  3. Return to the Department the fully executed original Statement of Understanding and a W-9 federal tax form.
- C.** The Department may grant an extension of the 30 day requirement in subsection (B) for good cause, provided that the Department receives a request for an extension from an applicant within the original 30 day period.
- D.** The Department may rescind a grant if an applicant fails to comply with the time-frame required by subsection (B), or as extended under subsection (C).
- E.** An applicant may request a modification of the terms of the Statement of Understanding for good cause that shall be detailed in the request. An applicant shall submit a written request at least 30 days prior to the proposed implementation of the requested modification.
- F.** The Department shall evaluate a request submitted under subsection (E) and may approve a requested modification provided that:
1. Applicant has demonstrated good cause for the requested modification; and
  2. The requested change is consistent with the:
    - a. Objectives of applicant's grant as originally approved; and
    - b. Requirements of this Article and applicable statutes.
- G.** The Department shall not reimburse an applicant for expenditures or obligations relating to a requested modification that are incurred prior to Department's approval under subsection (F).

**R20-1-117. R20-1-114. Monitoring**

- A.** A recipient of program assistance shall submit ~~an invoices~~ invoices for reimbursement every 3 months with a ~~and~~ and progress report ~~reports~~ describing specific work that has been done for the time period as identified in the training plan and the application as required under R20-1-115.
- B.** For the duration of the award, the Department shall monitor performance and use of funds quarterly through progress reports and Unemployment Tax and Wage Reports (UC-018). The ~~Program Manager~~ Department shall conduct a scheduled site visit at least once ~~before, during, or after~~ before, during, or after the project.
- ~~B.~~C.** At the termination of the project, the recipient of program assistance shall provide the Department with a ~~report~~ report describing jobs created, training conducted, project training dates, wages for newly hired personnel, benefits provided, demographic background of new hires, and discrepancies between the submitted application and the completed training project Final Evaluation Form as required under R20-1-117.
- D.** Upon request by the Department, a company shall submit documentation of continuing program results. The Department may make such requests for up to one year after completion of the training plan.

**R20-1-115. Invoices and Progress Reports**

- A.** A company shall submit the initial progress report and any related invoices for reimbursement to the Department within 120 days from the project start date. The Department shall grant for good cause a 30 day extension for submission provided that the Department receives the request for an extension prior to the original due date.
- B.** A company shall submit subsequent progress reports and related invoices and requests for reimbursement no less frequently than every 3 months (quarterly), whether or not there has been any activity.
- C.** The progress report shall describe the specific work completed up to and during the quarter covered by the report.
- D.** The progress report shall be on an electronic spreadsheet provided by the Department or on electronic media and shall list:
1. Net new jobs;
  2. For each employee covered under the grant:
    - a. Name;
    - b. Social Security Number;
    - c. Title;
    - d. Actual hourly wage with and without benefits;
    - e. Hire date; and
    - f. Termination date;
  3. Number of employees covered by the grant who are:
    - a. Minorities; or
    - b. Veterans.
- E.** Upon request from a small business, the Department may waive for good cause the information format requirement under subsection (D).
- F.** A company shall submit all invoices and requests for reimbursement to the Department within the earlier of:
1. Six months from the date the expense is incurred; or
  2. Six months of completion of the grant.
- G.** A company requesting reimbursement for training services provided by or products purchased from outside vendors shall submit a copy of the vendor's invoice detailing the transaction.

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- H. A company requesting reimbursement for training costs incurred internally shall submit a detailed description of the expenses incurred and an explanation of how the costs were determined and calculated.
- I. All requests for reimbursement:
  - 1. Shall have been projected in the approved training budget; and
  - 2. Be acknowledged by the company, in writing, as representing an accurate accounting of necessary training expenses incurred by the company; and
  - 3. Shall be accompanied by evidence that the minimum 25% (50% for incumbent worker training) of training costs have been contributed by or for the company.
- J. The company shall submit with each quarterly invoice and request for reimbursement the Unemployment Tax and Wage Report (UC-018) documenting net new employees hired and hiring dates;
- K. This subsection shall take precedence over any other provision in this Article. Cumulative grant disbursements shall be directly proportionate to the number of new jobs the company has filled and provided training for under the grant. However, the Department may, in its discretion, exceed the proportionate amount by not more than 10% of the total grant to cover start-up costs relating to initial design and implementation of the training program.

**R20-1-118, R20-1-116. Repayment**

- A. If a company fails to meet all requirements specified in the application, training plan, or Statement of Understanding the company shall submit to the Department within, the earlier of, 10 days after termination of the grant or 10 days after expiration of the grant deadline:
  - 1. The completed Final Evaluation Form required under R20-1-117; and
  - 2. A letter of explanation regarding the failure to meet all requirements.
- B. The Department shall require a recipient of program assistance that fails to meet the requirements, as established in the recipient's training plan and delineated in the recipient's application, to return all of the program funds if 85% of new jobs are not created during the established timeframe. If more than 85% but less than 100% of new jobs are created, the company will return funds on a prorated bases.  
The amount of the company's award under this Article is determined, in part, by the number of net new jobs to be created (or positions to be trained for economic conversions) and the wage or salary level for those jobs or positions. The Department may require the company to make repayment as specified under subsections (C) through (F) if the company fails to meet the committed number or amount in the application, training plan, or Statement of Understanding for:
  - 1. Net new jobs created;
  - 2. Positions to be trained; or
  - 3. Wage or salary levels.
- C. If the company fails to create the committed number of net new jobs or committed number of positions trained, the Department may reduce the company's award to what the award would have been if the commitment number in the application, training plan, or Statement of Understanding had been the actual number, and require the company to refund all amounts in excess of the reduced amount.
- D. If the company fails to pay compensation at the committed wage or salary levels, the Department may reduce the company's award to what the award would have been if the commitment number in the application, training plan, or Statement of Understanding had been the actual number, and require the company to refund all amounts in excess of the reduced amount.
- E. If the company fails to create the committed number of net new jobs or committed number of positions trained and the company fails to pay compensation at the committed wage or salary levels, the Department may reduce the company's award to what the award would have been if the commitment numbers in the application, training plan, or Statement of Understanding had been the actual numbers, and require the company to refund all amounts in excess of the reduced amount.
- F. A company shall make repayment within 30 days following receipt of the Department's repayment request.

**R20-1-119, R20-1-117. Final Evaluation Form**

- A. Within 6 months after the grant completion date and prior to final disbursement, Each each recipient of program assistance shall complete a final evaluation form at the completion of its project. This form shall consist of the following:
  - 1. Business, name, address, phone, FAX number, and contact person;
  - 2. Estimated number of new full-time and part-time jobs to be created according to the recipient's original application;
  - 3. Actual number of new full-time and part-time jobs created;
  - 4. Explanation of any discrepancy between the estimated number of new jobs on the application and the actual number of new jobs created;
  - 5. Estimated number of trainees eligible under the Job Training Partnership Act according to the application;
  - 6. Actual number of trainees eligible under the Job Training Partnership Act who were hired;
  - 7. Number of applications reviewed;
  - 8. Number of interviews conducted;



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9. Estimated number of new hires to be trained according to the application;
  10. Actual number of new hires who completed training;
  11. Explanation of any discrepancy between the estimated number of new hires on the application and the actual number of new hires who completed training;
  12. Anticipated dates for start and completion of training according to the application;
  13. Actual dates for start and completion of training;
  14. Explanation for any discrepancy in the anticipated and actual dates for the start and completion of training;
  15. Amount of the grant that was awarded to the business;
  16. Amount of grant disbursed to the business to date;
  17. List of new hires, indicating job title and average hourly wage including benefits;
  18. Information on benefits offered to employees;
  19. Explanation of any discrepancies in submitted application and completed training project;
  20. Documentation of efforts to leverage other training resources, according to A.R.S. § 41-1542(D);
  21. Information on demographic background of new hires (including racial and ethnic background, age, gender, and veteran or handicap status) according to A.R.S. § 41-1542(D).
1. Date;
  2. Company name;
  3. Address;
  4. Phone and fax numbers;
  5. Contact person;
  6. E-mail address;
  7. Number of Arizona employees at time of grant award;
  8. Number of net new full-time positions company agreed to hire and train and average hourly wage for the positions;
  9. Number of net new part-time positions company agreed to hire and train and average hourly wage for the positions;
  10. Actual number of full-time positions created under the grant;
  11. Actual number of part-time positions created under the grant;
  12. Actual start and completion dates for training; and
  13. Company shall specify which of the following applies to the training project:
    - a. Project was completed and terms were met;
    - b. Project was completed early;
    - c. Project was granted an extension; and
    - d. Project was not completed.
- B.** The company shall attach a list of new hires under the project from project start date through project end date. For each new hire the list shall indicate, if applicable:
1. Hire date;
  2. Termination date;
  3. Employee's name and Social Security Number;
  4. Job title;
  5. Actual hourly wage or salary, calculated both with and without benefits;
  6. Employee's age and gender;
  7. Employee's racial and ethnic background; and
  8. Employee's veteran and handicap status.
- C.** The company shall explain all discrepancies between the submitted application, training plan, and Statement of Understanding and the training project to date. If none, the company shall indicate that no discrepancies exist.
- D.** The company shall attach documentation of efforts to leverage other training resources if the efforts are not as described in the application.
- E.** The company's Chief Executive Officer or highest ranking site official shall sign and date a Statement of Conditions attesting on behalf on the company to the following:
1. The company is in good standing with the Arizona Corporation Commission;
  2. The company is current with Arizona and federal tax filings;
  3. Unemployment and Workers Compensation insurances are current and in force;
  4. The company is not presently involved in any litigation that could have a material adverse affect on the company's or principals' financial condition.
- F.** The Statement of Conditions shall also contain:
1. An acknowledgment that if the company knowingly files a false statement in the reporting documents with an intent to defraud or deceive, the company shall be guilty of the offense of filing false public records and subject to the penalty provided in A.R.S. §13-2407;
  2. A statement that the company affirms that the statements and representations in the Final Evaluation Report and the supporting documentation are true and correct as of the date of execution; and

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3. The signature and title of the person who completed the Final Evaluation Report and date of signature.  
G. The company shall return the Final Evaluation Report to the Department at the address indicated in the Report.

**R20-1-120. R20-1-118. Final Evaluation Criteria Annual Report**

- A. The Department shall use progress reports and final evaluation criteria reports to determine the effective use of the training fund as required by A.R.S. § ~~41-1542(C)(6)~~ 41-1542(C)(5) and to determine future funding and possible ~~changes of amendments to these rules.~~
- B. The Department shall use as an Final evaluation criteria shall include: the factors contained in A.R.S. §41-1542(D)(1) through (D)(9).
1. ~~Number of persons trained;~~
  2. ~~Costs for each type of training or recruitment;~~
  3. ~~Number of hours a week a recipient of program assistance expects new employees to work;~~
  4. ~~The amount of state income, sales, and property taxes that a person making the starting wage could be expected to pay;~~
  5. ~~Benefits in addition to wages that a recipient of program assistance provides the employees;~~
  6. ~~Health insurance policy coverage and the amount a recipient of program assistance expects the employee to contribute;~~
  7. ~~Demographic background of the persons trained, including age, race, gender, ethnic background, veteran and handicap status;~~
  8. ~~Number of persons trained who qualified through the Job Training Partnership Act or as displaced homemakers;~~
  9. ~~Number of jobs located in a rural or economically depressed area; and~~
  10. ~~Impact of the jobs created on the overall economy of the state.~~