

NEBRASKA ADMINISTRATIVE CODE

Title 87 – Nebraska Department of Economic Development

**Chapter 1 – Rules and Regulations for
Agricultural Opportunities and Value-Added Partnership Act**

[Pursuant to Provisions of LB 90, 99th Legislature, First Session, 2005, Sections 5 through
14]

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TITLE 87 – NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT

Chapter 1 - Agricultural Opportunities and Value-Added Partnerships Act Regulations

001 Statement of Purpose. The purpose of these regulations is to aid in the administration of the Agricultural Opportunities and Value-Added Partnerships Act as contained in LB 90, 99th Legislature, 1st Session, Sections 4 to 15 (attached).

002 Administration. The Act and these regulations shall be administered by the Nebraska Department of Economic Development, with assistance from the Nebraska Department of Agriculture.

003 Definitions. In addition to the terms listed below, the definitions of terms found in the Agricultural Opportunities and Value-Added Partnerships Act shall apply to such terms when found in these regulations and in grant application materials:

003.01 ACT means the Agricultural Opportunities and Value-Added Partnerships Act as contained in LB 90, 99th Legislature, 1st Session.

003.02 APPLICANT means any entity that has submitted an application for consideration to receive grant funds pursuant to the Act.

003.03 DEPARTMENT means the Nebraska Department of Economic Development.

003.04 IN-KIND CONTRIBUTION means the value of goods, services, or labor used in direct support of the project.

003.05 MATCH means money or in-kind contributions or a combination of both.

003.06 PROGRAM YEAR shall coincide with the State of Nebraska fiscal year.

003.07 PROJECT means any agricultural or value-added agricultural product activity in the areas specified in Section 10 of the Act designed to promote the purposes specified in Section 7 of the Act.

003.08 PROPOSAL means any project that is submitted for consideration for grant funds by an applicant pursuant to the Act.

003.09 RECIPIENT means any applicant who has been selected to receive grant funds pursuant to the Act.

003.10 SUSTAINABILITY means the ability of the project to operate independently of supporting grant funds from any source beyond the time period of any grant received pursuant to this Act..

4 Eligible Applicants.

004.01 These include non-profit and for-profit entities listed in Section 9 of the Act, including farming and ranching operations collaborating with other eligible entities.

004.02 Applicants must be able to document that a match of at least 25% of the funds granted is matched from sources other than state or federal governmental sources; and must satisfy the other requirements of Section 11 to participate in the grant program.

004.03 Applicants must be located within Nebraska; have Nebraska-based ownership or, in instances where ownership is not part of the organizational structure of the applicant entity, be Nebraska-based entities or organizations; and have a valid tax identification number or social security number.

005 Restrictions

005.01 Grant funds shall not be used for any activity primarily designed to contribute to a single business, enterprise or individual, nor used to subsidize an existing farming or ranching operation.

005.02 Grant funds must be used exclusively for the purposes listed in each proposal and solely for the benefit of the project described in the proposal.

005.03 Grants shall be made in amounts up to, but not exceeding, \$75,000.

005.04 Grant funds shall not be used for administrative costs of the project

005.05 No more than one grant may be used simultaneously in support of a project, nor may a recipient receive more than one grant in any calendar year for the same project.

005.06 Grants shall be awarded for one year starting from dates specified in the grant agreement but not starting prior to the date of grant execution by the Department and the Recipient. Grant extensions may be made at the discretion of the Department. The total of such extensions shall be no more than three years for any single grant. Funding for grant projects may be renewed at the discretion of the Department on an annual basis for an additional three years. Requests for renewal will compete with submitted applications for the upcoming grant period.

006 Failure to Comply

006.01 The Department will determine if the recipient has failed to comply with the requirements of the grant program, misused grant funding, failed to fulfill requirements of the grant, or fraudulently obtained or used grant funds.

006.02 Any recipient found to have failed to comply with the grant program shall be required to repay a portion or all of the grant funds awarded and the Department may use appropriate legal steps to enforce such repayment.

006.03 Any project found not to be in compliance with the grant program will make the recipient ineligible to receive future grant funding under the program.

007 Application Guidelines, Evaluation and Funding

007.01 The Department will prepare and make public, application guidelines and forms, plus information about funding cycles and the grant selection process, including evaluation criteria. Final funding decisions will rest with the Director of the Department.

007.02 The Department will require an agreement with all recipients outlining the terms of funding and project development, implementation and reporting. Recipients unable to enter into such an agreement will not receive funding.

008 Reporting Requirements

8.1 Recipients will be required to report on funded projects to include, but not limited to, impact of the grant project and performance based on measured goals and outcomes.

_____ Sec. 4.
Sections 4 to 15 of this act shall be known and
may be cited as the Agricultural Opportunities and Value-Added
Partnerships Act. The act terminates on January 1, 2011.

_____ Sec. 5.
(1) The Legislature finds that:

_____ (a)
_____ There is
a serious economic crisis in the
agricultural and rural sectors of Nebraska's economy;

_____ (b)
There is a need in such sectors to develop strategies
and programs to create genuine economic opportunities that enable
people to improve their incomes, avoid poverty, build assets, and
develop their capacity to contribute to the betterment of their
communities;

_____ (c)
_____ Strong
communities enable local residents to be more
self-sufficient, which contributes to the overall strength and
well-being of Nebraska; and

_____ (d)
Adding value to agricultural products offers farmers
and ranchers the potential to obtain a larger share of food
dollars.

_____ (2) The
Legislature further finds that there is a need
to:

_____ (a)
Support self-employment and small-scale
entrepreneurship in both agricultural and nonagricultural
activities;

_____ (b)
Enhance income and opportunities for farming and
ranching operations to stem the decline in the number of such
operations;

_____ (c)
Develop strategies and programs to increase the
farming and ranching operations' share of the food-system profit;

_____ (d)
Build the capacity of farming and ranching operations
and small rural businesses to benefit from the development of
electronic commerce; and

_____ (e)
Strengthen value-added enterprises by promoting
strategic partnerships and networks through multigroup cooperation.

_____ Sec. 6.
For purposes of the Agricultural Opportunities
and Value-Added Partnerships Act:

_____ (1)
_____ Farming
or ranching operation means the active use,
management, and operation of real and personal property for the
production of crops or raising of livestock;

_____ (2)
_____ Project
means any agricultural or value-added

agricultural product activity in the areas specified in section 10
of this act designed to promote the purposes specified in section 7
of this act. _____ Project

does not mean, and grant funds shall not be
used for, any activity primarily designed to contribute to a single
business, enterprise, or individual or designed to subsidize an
existing farming or ranching operation; and

_____. (3)
Value-added means increasing the net worth of food or
nonfood agricultural products by processing, alternative production
and handling methods, collective marketing, or other innovative
practices.

_____. Sec. 7.
The purposes of the Agricultural Opportunities

and Value-Added Partnerships Act are to:

_____. (1) _____
Support _____ small _____
enterprise _____ formation
_____ in _____ the
agricultural sector of Nebraska's rural _____ economy,
including
innovative cooperative efforts for value-added enterprises;

_____. (2) _____
Support the development of agricultural communities
and economic opportunity through innovative partnerships among
farming and ranching operations, rural communities, and businesses
for the development of value-added agricultural products;

_____. (3)
Encourage collaboration between farming and ranching
operations and between farming and ranching operations and

communities, government, and businesses as well as between communities and regions;

_____.(4)_____

Strengthen the value-added production industry by promoting strategic partnerships and networks through multigroup cooperation for the creation of employment opportunities in the value-added agriculture industry;

_____.(5)_____

Enhance the income and opportunity for farming and ranching operations in Nebraska in order to stem the decline in their numbers;

_____.(6)_____

Increase the farming and ranching operations' share of the food-system profit; and

_____.(7)_____

Enhance opportunities for farming and _____ranching operations to participate in electronic commerce and new and emerging markets that strengthen rural economic opportunities.

_____.Sec. 8.

(1) The Department of Agriculture and the Department of Economic Development shall establish a competitive grant process to provide grants for projects under the Agricultural Opportunities and Value-Added Partnerships Act to eligible entities. The Department of Economic Development shall administer the act. Grants may be made for up to seventy-five thousand dollars annually to eligible entities under section 9 of this act that directly address one or more of the purposes specified in section 7 of this act in the areas specified in section 10 of this act and which meet the requirements of this section and section 11

of this act.

_____.(2)

Priority for the awarding of grants within the parameters of this section shall be given to projects that make the greatest contribution in increasing the number and quality of self-employment opportunities for farming or ranching operations. Grants shall also be awarded to pilot cooperative efforts for the promotion of value-added products. Projects may be recommended for recognition by the Governor.

_____.(3) A

recipient of a grant shall not receive more than one grant in any one calendar year for the same project.

_____.(4)

Grants shall be awarded on a one-year basis but may be renewed on an annual basis for no more than three years. The

Department of Agriculture and the Department _____ of
Economic

Development shall develop an annual performance review process and
a program for grant renewal of approved projects determined to have
continued necessary statewide application and success.

(5) Grant
funds shall not be used to replace other
funding for the administrative support of the recipient or the
administrative support of the project or for administrative costs
relating to the planning of the project or for any activity
primarily designed to contribute to a single business, enterprise,
or individual.

Sec. 9.
Eligible entities for grants under the
Agricultural Opportunities and Value-Added Partnerships Act include
communities, counties, agencies, educational institutions, economic
collaborative arrangements with other operations, entities, _____ or
organizations that meet the purposes specified in section 7 of this
act.

Sec. 10.
(1) Grants under the Agricultural Opportunities
and Value-Added Partnerships Act shall be used to support projects
in the following areas:

(a)
Research;

(b)
Education and training;

_____ (c)
Market development;

_____ (d)
Nonadministrative business _____ planning
assistance,
feasibility and market studies, capitalization plans, and technical
assistance;

_____ (e)
Development of cooperatives;

_____ (f)
Community and multicomunity initiatives;

_____ (g)
_____ Creation,
_____ retention, _____ and
transfer of value-added
agricultural business initiatives in rural communities;

_____ (h)
Efforts to obtain startup or working capital or other
capital expenditures necessary for the development of the project;

_____ (i)
_____ Community-based, _____ farmer-
owned, _____ or
rancher-owned
value-added initiatives; and

_____ (j) Other
activities that are deemed necessary to fulfill
the purposes specified in section 7 of this act.

_____ (2) Such
projects shall demonstrate the ability to

provide private new enterprise formation or expanded incomes and economic opportunities for existing enterprises.

Sec. 11.

To be eligible for a grant under the Agricultural Opportunities and Value-Added Partnerships Act, an applicant shall:

(1)

Document a matching amount in money or in-kind contributions or a combination of both equal to twenty-five percent of the grant funds requested;

(2)

Specify measurable goals and expected outcomes for the project for which the grant funds are requested; and

(3)

Specify an evaluation and impact assessment process or procedure for the project for which the grant funds are requested.

Sec.

12.If the Department of Economic Development determines the recipient of a grant has failed to fulfill the requirements of the grant, has used fraud to obtain or use the

grant funds, or has in any other way failed to comply with the Agricultural Opportunities and Value-Added Partnerships Act or the rules and regulations adopted and promulgated pursuant to the act, the recipient shall repay a portion or all of the grant funds awarded. A recipient of grant funds shall not utilize or divert grant funds to any purpose or expenditure not specified or contemplated in the application or terms of the award of the grant without the prior approval of the department. The department may use any appropriate civil and criminal remedies available to enforce this section.

_____ Sec. 13. __

The Department of Economic Development shall submit an annual report to the Governor and the Legislature on or before January 1 listing the recipients and grant amounts for grants made under the Agricultural Opportunities and Value-Added Partnerships Act in the previous year, the documented and measurable impacts of the grants, and an evaluation of the performance of the grant program based on the measurable goals and expected outcomes of the recipients of such grants. Copies of the program performance evaluation shall be made available through print and electronic media.

_____ Sec. 14. __

The Department of Agriculture and _____ the Department of Economic Development shall form a committee made up of staff from each agency to adopt and promulgate rules and regulations to carry out the Agricultural Opportunities and Value-Added Partnerships Act. Projects funded by grants under the act shall be coordinated with other organizations or institutions

working on similar projects in the state. The Department of
Economic Development shall be the agency responsible for carrying

out the act.

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Sec. 15.

The Agricultural Opportunities and Value-Added

Partnerships Cash Fund is created. The fund shall be used by the Department of Economic Development for grants awarded pursuant to the Agricultural Opportunities and Value-Added Partnerships Act. Money credited to the fund shall include any monetary gifts, grants, donations, proceeds from contracts for services, and reimbursement of expenses. The department shall seek money from sources such as, but not limited to, federal funds, commodity checkoff funds, private donations, and private grants. All such funds shall be credited to the Agricultural Opportunities and Value-Added Partnerships Cash Fund. No funds shall be received or accepted for the Agricultural Opportunities and Value-Added Partnerships Cash Fund that are designated for the purpose or the benefit of a single business, enterprise, or individual. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.