



NOTICE OF RULE MAKING

Arizona Commerce Authority Rule Notice of Rule Making No. 14-01

1. Rule(s):

Arizona Job Training Program

2. Preamble.

A. Reference to the specific statutory authority for the Rule(s).

A.R.S. §§ 41-1541 through 1544.

B. An explanation of the Rule(s), including the agency's reasons for initiating the rule making.

These Rules, which supersede the Rules set forth in Title 20, Chapter 1, Article 2 of the Arizona Administrative Code, are intended to improve administration of the Arizona Job Training Program (the "Program"). After operation of the Program in accordance with these Rules for approximately one year, the Arizona Commerce Authority intends to re-evaluate the Program with the Workforce Arizona Council to determine whether the Rules are producing the desired effects and whether any additional revisions or clarifications may be appropriate.

Set forth immediately below is a brief summary of the manner by which these Rules substantively revise the currently existing Rules. The summary below also sets forth the specific motivation for each of the revisions contemplated.

a. Incumbent Employee Training Grants.

i. Training grants will be awarded on the basis of a random, blind drawing (i.e., a lottery) in lieu of the current first-come, first served basis for awarding such grants. This revision is intended to avoid hardship and inconvenience to grant applicants seeking incumbent employee training grants.

ii. The random, blind draw will provide a preference to applicants whose training programs allocate at least 65 percent of costs to training provided by Arizona community colleges, including community colleges that are a part of the state community college system and community colleges operated in Arizona by tribal governments. As a consequence, incumbent employee training applications that devote at least 65 percent of their training budgets to training provided by community colleges will have a greater prospect of a grant award than applications that do not devote as a significant a concentration of their training budgets to such sources. This clarification in terms of the random, blind drawing process is intended to enhance the profile of the Arizona community college system as a valued employee-training provider.

iii. At least three revisions to the existing rules are intended to enhance the number of recipients of incumbent employee training grant awards and to thereby disperse Program funding among a broader group of employer-recipients. More specifically:

I. The per-employee incumbent grant amount will be reduced to \$4,000 from the current maximum per-employee grant amount of \$8,000 in the case of rural employers and employers with fewer than 100 employees and reduced to \$2,500 from the current maximum per-employee grant of \$5,000 in the case of all other employers.

II. The maximum period of time during which all training of incumbent employees must occur will be reduced to one year from the current maximum of two years.

III. An employer that receives an incumbent employee training grant will be precluded from applying for another incumbent training grant for a period of 12 months following completion of the initial grant. Currently, there is no restriction on the ability of an employer to complete one incumbent training grant and immediately thereafter apply for another.

b. New Employee Training Grants.

i. The Rules clarify that Program funds may be used to train new employees hired at any time following submission of a Program grant application. The existing Rules suggest that a new employee is ineligible for training funds unless hired after the date the employer enters into a formal grant agreement after being awarded a grant. This clarification is intended to remove impediments to the hiring of employees by employers of new and expanding businesses. The clarification does not extend the maximum period of time during which training must occur. For new employee training, the maximum period of time during which all training must occur remains two years.

c. General

i. The Rules provide that in respect to both incumbent employee training and new employee training, the employee-trainee must be a full-time permanent employee of the employer-grantee. The existing Rules make funding available to training of *part-time* employees. This change is motivated by efforts to address increasing demands on Program funding.

ii. The Rules provide that in respect to both incumbent employee training and new employee training, funding of on-the-job training costs is restricted to employees who are apprentices in programs registered with the Arizona Apprenticeship Office. The existing Rules make funding available for all employees incurring on-the-job training costs. This change is also motivated by efforts to address increasing demands on Program funding.

3. The exact wording of the Rule(s).

See attached.

4. The name and contact information of agency personnel with whom persons may communicate regarding the Rule(s).

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5. Where written submissions on the proposed Rule(s) may be inspected (by appointment only).

Written submissions on the proposed Rules may be inspected (by appointment only) at the following location:

Arizona Commerce Authority
333 North Central, Suite 1900
Phoenix, Arizona 85004

6. The time during which written submissions may be made and the time and place, if scheduled, where oral comments may be made.

Written submissions may be made within thirty (30) days after the date of posting of the Notice of Rule Making. Written submissions should be directed to:

Arizona Commerce Authority
333 North Central, Suite 1900
Phoenix, Arizona 85004

No hearing at which oral comments may be made has been scheduled as of this time.

7. Any known timetable for agency decisions or other action in the proceeding.

None at this time.

8. The date of posting the Notice of Rule Making.

January 14, 2014.

9. The deadline for the Authority to file a notice of adoption of the Rule(s).

One hundred and eighty (180) days from the date of posting of the Notice of Rule Making.

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ARIZONA JOB TRAINING PROGRAM

PROGRAM RULES & GUIDELINES (RULES)¹

“Preliminary – Pending ACA Rules Process”

Section 1. Overview.

The Arizona Job Training Program (Program), established pursuant to A.R.S. §§ 41-1541 through 1544 and administered by the Arizona Commerce Authority (Authority), offers grants to assist eligible Arizona employers in maintaining or exceeding employee training expenditures. By supporting the design and delivery of customized employee training programs that increase the skill and wage levels of employee-trainees, the Program stimulates economic growth in Arizona.

Program grants are payable on a cost reimbursement basis. Grants cover up to 75 percent of the eligible costs for training of new employees and (or so-called “new employees”) and up to 50 percent of the eligible costs for training of existing employees (or so-called “incumbent employees”).

Grants for training of new employees provide up to \$8,000 of eligible training costs per employee-trainee in the case of rural employers and employers with fewer than 100 employees, and up to \$5,000 of eligible training costs per employee-trainee in the case of all other employers. Grants for training of incumbent employees provide up to \$4,000 of eligible training costs per employee-trainee in the case of rural employers and employers with fewer than 100 employees, and up to \$2,500 of eligible training costs per-employee-trainee in the case of all other employers. The maximum grant amount for an employer in all cases is \$1.5 million.

Program grants cover up to a 24-month training cycle in the case of new employee training and up to a 12-month training cycle in the case of incumbent employee training.

Grants for new employee training are awarded to eligible employers on a first-come, first-served basis. Grants for incumbent employee training are awarded to eligible employers on the basis of a random, blind drawing with a preference accorded employers whose training budgets allocate at least 65 percent of costs to training provided by one or more Arizona community colleges.

¹ These Rules are issued under the authority of A.R.S. § 41-1005(A)(28) to govern the administration of the Arizona Job Training Program. These Rules supersede and replace the Rules set forth in Title 20, Chapter 1, Article 2 of the Arizona Administrative Code. In the case of any conflict between the Rules and governing statutes, the statutes will prevail. Section 7 of these Rules provides a glossary of capitalized terms used in these Rules.

The Program is funded by the Arizona Job Training Fund, which provides average annual Program revenue of approximately \$15 million.

Section 2. Grant Eligibility.

- A. Eligible Employers. Subject to all additional requirements set forth in these Rules, an Employer or a Consortium is eligible for a Program grant if the Employer or each member of the Consortium:
1. Is registered with and participating in the federal E-verify program as required by A.R.S. § 21-214(B);
 2. Pays Employee-trainees as prescribed by A.R.S. § 41-1543(3) and Rules Section 2(b)(1);
 3. Either:
 - a. Is currently paying into the Arizona Job Training Fund or commits to paying into the fund; or
 - b. Is exempt from paying into the Arizona Job Training Fund pursuant to A.R.S. § 23-769 (B) or (C); or
 - c. In the case of an application for New Employee training, is a rural non-profit organization exempt from federal unemployment tax under section 501(c)(3) of the Internal Revenue Code that opts for unemployment tax reimbursement and provides documentation to the Authority that:
 - i. Indicates that the geographical area where the organization is located has a shortage of skilled workers; and
 - ii. Demonstrates that the proposed New Employee Training Plan will increase the number of skilled workers in the geographical area; and
 4. In the case of an application for Incumbent Employee training, at least 12 months have elapsed since completion of any prior Incumbent Employee training grant awarded the Employer.
- B. Eligible Employees. Subject to all additional requirements of these Rules, Employees are eligible to be included in an Employer's approved Training Plan if:
1. The average wage payable to all Employee-trainees throughout the term of the Training Plan is at least equal to the Qualifying Wage Rate applicable in the case of the Employer as of the date of the Program grant application.
 - a. The Qualifying Wage Rate is established by the Council. Among the items taken into consideration in formulating the Qualifying Wage Rate from time to time are: (i) the location of the Employer, (ii) the number of employees of the Employer, and (iii) all relevant economic factors, including the then current economic conditions of each Arizona county in order that the Qualifying Wage Rate established for each county properly reflects the current needs of local employers in the county.
 - b. In general, any change in the existing Qualifying Wage Rate is effective on July 1 of each year. An alternative effective date may be authorized by the Council.
 - c. The Authority maintains on its website the Qualify Wage Rate that applies from time to time in respect to each Arizona county.

2. In the case of an application for New Employee training, the Employee-trainees are hired *after* the date of the Program grant application in employment positions that qualify as Net New Jobs.

Section 3. Grants – Types of Grants, Amounts of Grants, Other Considerations,

- A. Training Type. Grants may be issued *either* for New Employee training or Incumbent Employee training. New Employee training and Incumbent Employee training cannot be combined within the same grant. An Employer may have only one grant for each type of training at any point in time.
- B. Term. Grants may not exceed a maximum prescribed period of time during which all training must occur.
 1. In the case of New Employee training, the maximum period is 24 months.
 2. In the case of Incumbent Employee training, the maximum period is 12 months.
- C. Training Plans and Budgets. Grants are based on an Employer's approved Training Plan and training budget. Grant funds are paid to reimburse a specified percentage of eligible training expenses incurred by an Employer in accordance with an approved Training Plan. The expenses must be incurred or contracted for *after* the start of the relevant (24-month or 12-month) grant training period. The expenses must relate to job skill instruction that upgrades specific employee skills either for an Employee's current job performance or an Employee's performance following a job promotion.
- D. Eligible Training Expense. Section 1 of Schedule 1 to these Rules enumerates the allowable training expenses that qualify as expenses eligible for reimbursement by the Program. Section 2 of Schedule 1 to these Rules enumerates, for illustrative purposes, certain training expenses that expressly do not qualify as reimbursable expenses.
- E. Grant Amount. Grant amounts are determined as follows:
 1. Maximum Grant Amount.
 - a. The maximum Program grant amount for 2014 is \$1.5 million. The Authority will provide notice on its website of any change in the maximum Program grant amount that may apply in future years.
 - b. If an Employer with an existing Program grant qualifies for a second grant at the same time (i.e., including, for example, if an Employer with a grant for Incumbent Employee training qualifies for a grant for New Employee training before the Incumbent Employee training is completed), the *combined* grant amounts cannot exceed \$1.5 million in 2014.
 2. Maximum Per-Employee Grant Allocation. Grants cannot exceed the following limits in terms of training dollars per Employee-trainee:
 - a. New Employee Training: Subject to Rules Section 3(E)(5) below:
 - i. Employers other than Small Employers:
 - (A) Urban Employers: \$5,000 per Employee-trainee filling a Net New Job.
 - (B) Rural Employers: \$8,000 per Employee-trainee filling a Net New Job.
 - ii. Small Employers: \$8,000 per Employee-trainee filling a Net New Job irrespective of the location of the Employer.
 - b. Incumbent Employee Training:
 - i. Employers other than Small Employers:
 - (A) Urban Employers: \$2,500 per Employee-trainee filling a Net New Job.

- (B) Rural Employers: \$4,000 per Employee-trainee filling a Net New Job.
- ii. Small Employers: \$4,000 per Employee-trainee filling a Net New Job irrespective of the location of the Employer.
3. Grants as a Percentage of Training Costs. Grants may not exceed the following limits in terms of the grant as a percentage of total eligible training costs under an approved Training Plan:
- New Employee Training: 75 percent, with the Employer responsible for the remaining 25 percent. Accordingly, for an approved Training Plan for Employee-trainees filling Net New Jobs, the Employer must provide an Employer Match in cash or other resources, including qualified expenditures and authorized in-kind contributions, at least equal to 25 percent of the eligible training costs included in the approved Training Plan.
 - Incumbent Employee Training: 50 percent, with the Employer responsible for the remaining 50 percent (the Employer Match in such case).
 - Employer Match. Section 3 of Schedule 1 to these Rules enumerates those expenditures and in-kind contributions that qualify as an Employer Match. Such expenditures must be incurred or contracted for (or in-kind contributions made) *after* the start of the relevant (24-month or 12-month) training period.
4. Relationship to Prior Year Training Budget. Grant funding can be provided only when an Employer's training budget in the year of the grant application is equal to or in excess of the Employer's training budget in the preceding year.
5. Sliding Scale Grant Amount Calculation for New Employee Training. The actual per-Employee grant allocation for New Employee training is a function of the objective scoring scale set forth in Schedule 2 to these Rules. Factors taken into consideration in connection with the scoring scale include: (i) the industry of, or type of facility maintained by, the Employer, (ii) the extent to which average wages paid to Employee-trainees holding Net New Jobs exceeds the Qualifying Wage Rate, and (iii) the number of Net New Jobs for which training will be provided.²

Section 4. Applications, Review, and Awards.

A. Time for Filing Applications.

1. The Authority will indicate on its website, www.azcommerce.com, when applications for Program grants will be accepted (i.e., when funding is available) for *each* type of Program grant (i.e., New Employee training or Incumbent Employee training).
2. In respect to each type of Program grant, the Authority is authorized to accept applications based on specific classifications of Employers. Thus, for example, if funding for Incumbent Employee training is available at a particular point in time only with respect to Small Employers and Rural Employers (but not all Employers), the Authority may, at such point of time, only accept Incumbent Employee applications from Employers within the Small Employer and Rural Employer classifications. Employers that qualify as *both* Small Employers and

² No similar sliding scale calculation is required in the context of a Program application for Incumbent Employee training.

Rural Employers may apply for Program grants only within one of such classifications at any point in time.

- B. Forms for Filing Applications. The Authority maintains two (2) distinct forms for use in applying for Program grants. Employers seeking grants for New Employee training or Incumbent Employee training (as the case may be) must use the form specifically designated for use in each case. Copies of the application forms are available on the Authority's website referenced in subsection (A) above.
- C. Content of Application Forms. An Employer must provide all information, including supporting documents, required by the application form.
- D. Method of Filing Applications. Applications for Program grants must be submitted electronically through the Authority's Electronic Application System (EASY). EASY automatically dates and time stamps each Program application thereby establishing (i) in the case of a Substantially Complete application for New Employee training, an Employer's priority placement number for purposes of the first come-first served system of prioritizing such applications and (ii) in the case of a Substantially Complete application for Incumbent Employee training, that the application was submitted in advance of the deadline for accepting such applications.
- E. Review of Applications.
 - 1. Only applications that are Substantially Complete in the Authority's determination are deemed submitted and reviewed for funding. An application will not be regarded as Substantially Complete if, among other matters, the Employer-applicant fails to adequately respond to each question in the application form and/or states that required information will be provided at a later date.
 - 2. During its review of an application, the Authority may request additional information, conduct a site visit, or otherwise discuss the application with the Employer with respect to deficiencies in the document.
 - 3. If an Employer fails to provide any requested additional information within 14 calendar days after request by the Authority (or up to 28 days if the Employer seeks and receives a compliance extension within the initial 14 day period), the application will be considered withdrawn. If an application is considered withdrawn, the application is treated as if had not been submitted. As a result, any priority or timeliness associated with an application date will be lost.
- F. Priority. With respect to establishing priority among otherwise eligible applications for Program funding, the Authority will award grants as follows:
 - 1. New Employee Training. Grants for New Employee training are awarded on a first-come, first-served basis. As noted above, EASY automatically dates and time stamps each application thereby establishing, in the case of a Substantially Complete application for New Employee training, an Employer's priority for purposes of the first come-first served system of prioritizing such applications.
 - 2. Incumbent Employee Training. Grants for Incumbent Employee training are awarded through the random, blind draw process described in Section 5 of these Rules.
- G. Awards.
 - 1. With respect to qualifying applications for which funding is available, the Authority will determine the amount of the Program grant in accordance with Rules Section 3(E). In making such determination, the Authority is authorized to

- make adjustments to a submitted training budget, including recalculations of the amounts of allowable training expenses that are consistent with these Rules. Thus, a final approved budget for Employee training may be lower than requested in an application.
2. The Authority will notify a successful Employer of a Program grant award and provide a Grant Agreement for the Employer-applicant's signature.
- H. Processing Fee. Successful Employer-applicants must remit to the Authority a non-refundable application fee equal to one percent of the maximum grant amount prior to execution of a Grant Agreement. The processing fee must be paid by check or wire transfer.
- I. Grant Agreements
1. Grant Agreements will set forth the specific terms governing a Program grant.
 2. In addition to the Program requirements set forth by statute and these Rules, Grant Agreements may set forth terms that, in the Authority's discretion, ensure that Program funds are used appropriately and that the interests of the Authority and the State of Arizona are otherwise adequately protected and advanced.
 3. Except in extraordinary circumstances, as determined by the Authority, the terms of Grant Agreements are not negotiable.
 4. A sample grant agreement may be furnished by the Authority upon request by an Employer after an Employer has submitted a Program grant application.
 5. Within 30 days after receipt of the Grant Agreement, the Employer-applicant must sign the document and return the document and a completed "Substitute Form W-9" to the Authority. If an Employer-applicant fails to comply in a timely manner, the Authority may consider the application as withdrawn.
- J. Protests and Appeals
1. If the Authority denies an application, the Employer-applicant may appeal the decision within 30 days by submitting a timely written request for a hearing or a notice of appeal with the CEO pursuant to A.R.S. § 41-1092 *et seq.* The denial of a grant prohibits the Employer-applicant from receiving an award under the Program unless the appeal is successful.

Section 5. Random Blind Drawings for Incumbent Training Awards.

- A. As noted, the Authority will award Program grants for Incumbent Employee training on the basis of random, blind drawings.
- B. A separate random, blind drawing is contemplated for each classification of Employer eligible to receive a grant for Incumbent Employee training (i.e., Small Employer, Rural Employer, or other Employer). Employers that qualify as *both* Small Employers and Rural Employers may participate in a drawing only in respect to one of such classifications.
- C. Consistent with Rules Section 4(A), the Authority will provide notice on its website when applications for Program grants for Incumbent Employee training will be accepted. Such notice will also: (i) identify the date and time established for the next random, blind drawing, which will be at least 30 days from the date of the notice and (ii) specify the deadline by which expressions of Employer interest in participating in a forthcoming drawing must be submitted.
- D. An Employer can evidence its interest in participating in a forthcoming drawing by (i)

completing the “Election to Participate” form that will be available on the Authority’s website for this purpose and (ii) submitting such form to the Authority electronically via EASY by the deadline established therefor. The length of such form will not exceed two (2) pages. An Employer is not required to submit the formal application for Incumbent training at the same time as submission of the “Election to Participate” form.

- E. Each random blind drawing will be conducted at the offices of the Authority at the date and time referenced therefor in the Authority’s notice.
- F. In carrying out each random, blind drawing:
 - 1. In general, a single drawing ticket will be assigned to each Employer who has submitting an “Election to Participate” form in a timely manner.
 - 2. However, if an Employer indicates on its “Election to Participate” form that it intends to allocate at least 65 percent of its proposed training budget to training provided by a one or more community colleges described in Ariz. Rev. Stat. § 41-1541(F) (pertaining either to community colleges that are part of the Arizona community college system or community colleges operated in Arizona by a tribal government), then two (2) drawing tickets will be assigned to the Employer. As a consequence, Incumbent Employee applications that will devote at least 65 percent of their training budgets to training provided by one or more of such community colleges will have a greater prospect of a Program grant award than applications that do not devote as significant a concentration of their training budgets to such sources.
 - 3. All tickets for a class of drawings will be placed in an opaque container and stirred. The Authority will read the applicant’s name on each drawing ticket as the ticket is placed in the container.
 - 4. The Authority will hand pick each drawing ticket from the container one at a time until all tickets have been drawn from the container. The order in which the drawing tickets are removed from the container represents the order in which Incumbent Employee grant awards will be made subject to review of grant applications, final qualification and availability of funding. If more than one ticket of an Employer-applicant is drawn (given the allocation of an extra drawing ticket based on intent to devote a specified percentage of a training budget to community college sources), only the first such ticket drawn will be utilized in establishing the order of all drawing tickets.
 - 5. Following the drawing, the Authority will notify each Employer that submitted an “Election to Participate” form of the Employer’s position in the order established by the drawing.
 - 6. Further, following the drawing, the Authority will review actual Incumbent Employee applications, in the order established by the drawing, to determine their respective eligibility. For this purpose, Employers will be required to submit formal Incumbent Employee applications in accordance with the method described by Rules Section 4(D) not later than the date specified by the Authority. Failure to submit an application in a timely manner will result in a cancellation of the priority established by the drawing.
 - 7. Review of Incumbent Employee applications will be conducted in the manner described by Rules Section 4(G).

8. If an Employer submits an “Election to Participate” form disclosing its intent to allocate at least 65 percent of its proposed training budget to training provided by a community college described in Rules Section 5(F)(2) *but* the Employer’s training budget fails to conform to such allocation, the Employer’s application will be considered withdrawn and will receive no further review or consideration.
9. In the event funds are not sufficient to fully fund an otherwise eligible application in the drawing, the Authority will offer the then available funds to the Employer-applicant. The applicant may then either accept the funds (thereby potentially implicating renewed eligibility for the period of the grant and the following 12 months pursuant to Rules Section 2(A)(4) or withdraw its application.
10. If a post-drawing application is withdrawn from the drawing process, the Authority will offer the otherwise allocable amount to the Employer-applicant next in rank.
11. If funding is fully absorbed, the Authority will provide notice thereof to the remaining applicants in the drawing that have not been previously approved or denied a grant.

Section 6. Reporting and Reimbursements.

A. Reporting.

1. General. On forms and in the manner determined by the Authority, Employer-grantees must file: (i) quarterly progress reports throughout the term of the Program grant and (ii) a final progress report not later than 60 days after expiration of the grant term. The Authority may terminate a grant or demand repayment of prior grant payments for failure to comply with these reporting requirements.
2. Requests for Reimbursement. Grantees must request reimbursement for approved training expenses on a form and in the manner determined by the Authority.

B. Site Visit. The Authority may conduct at least one site visit of the grantee’s place of business during the term of the grant or before the Authority makes the final disbursement of funds to the grantee.

C. Final Reimbursement. Upon a grantee’s request, the Authority will determine the amount of a final grant disbursement.

1. If the Authority determines that the grantee has met all Program and Grant Agreement terms and conditions, the Authority will make the final grant disbursement due.
2. If the Authority determines that the grantee has not met all Program and Grant Agreement terms and conditions, the Authority may:
 - a. Make no payment or make a reduced final payment; or
 - b. Send written notification to the grantee requiring full or partial repayment of any amounts previously paid to the grantee.

The Authority retains the discretion to require full or partial payment of any amounts previously paid to the grantee if the grantee has failed to comply with all Program and Grant Agreement terms and conditions irrespective of whether the grantee formally requests a final grant disbursement.

Section 7. Definitions.

The following definitions, which are used in the preceding provisions of the Rules or in the Schedules, have the following meanings unless the context otherwise dictates:

“Affiliate” means, in respect to a specified person or entity, a person or entity that, directly or indirectly, controls, is controlled by, or is under common control with such specified person or entity. In the context of an Employer, a parent entity owning at least 51 percent of the ownership interests of the Employer is deemed an “Affiliate” of the Employer. Similarly, in the context of an Employer, a subsidiary entity at least 51 percent of the ownership interests of which are owned by the Employer is deemed an “Affiliate” of the Employer.

"Authority" means the Arizona Commerce Authority.

"CEO" means as prescribed under A.R.S. § 41-1501(3) and may also include the CEO's designee.

"Cluster Industry" has the meaning prescribed under A.R.S. § 41-1543(8) and includes, but is not limited to, the industries targeted by the Authority such as aerospace and defense, manufacturing, renewable energy, optics/photonics and semiconductor businesses.

"Consortium" means:

A group of at least two Employers (excluding any contracted Qualified Training Provider) that combine efforts to meet common training needs according to a specific occupational category or current industrial trend; or

A professional or trade association or a joint apprenticeship training committee that is composed of a majority of businesses eligible to participate under the Program; or

A small business development center encompassing a partnership between the State's ten community college districts and the U.S. Small Business Administration.

"Council" means the Governor's Workforce Arizona Council established under A.R.S. § 41-1542.

“EASY” means the Authority’s “Electronic Application System” used for transmitting documentation to the Authority electronically.

"Employee" means a full-time, permanent (non-seasonal, non-contract) employee (including an employee of a professional employment organization) who performs services (in an employment position in respect to which the normal work week is at least 35 hours) for an Employer that applies for or otherwise obtains a Program grant and for whom such Employer is required to remit Federal Insurance Contributions Act (FICA) taxes. The term “Employee,” in the context of a Small Employer, includes an Owner who otherwise qualifies as an “Employee.” An Owner in the context of any other Employer is not considered an “Employee” irrespective of whether such Owner otherwise qualifies as an “Employee.”

"Employer" means an entity (and any one or more Affiliates) that:

Have at least one business location in Arizona;

Are not public agencies as defined under A.R.S. § 11-951; and

Are not public service corporations as defined under Arizona Constitution Article 15 Section 2.

Any reference in these Rules to the term “Employer” shall also include, as the context indicates, a Consortium that is awarded a Program grant.

"Equipment" means the following items the value of which for purposes of the Employer Match will be prorated during the time used for training under a grant:

- i. Machinery that has verifiable annual depreciation; or
- ii. Computer hardware or software purchased after a training plan start date.

"Employer Match" means costs incurred in meeting the Employer's contribution requirement as prescribed by A.R.S. § 41-1541(D) and used in determining the total grant amount.

"Export-Oriented Business" means an Employer that derives more than fifty percent of its gross receipts from sales outside of the State of Arizona.

"Grant Agreement" means the agreement between the Employer and the Authority setting forth the terms of a Program grant.

"Headquarters" means an Employer's principal central administrative office where primary headquarters functions and services are performed, including financial, personnel, administrative, legal, planning and similar business functions and services.

"Incumbent Employees" means an Employer's Employees as of the date of a Program grant application (and successors to such Employees) as well as the Employer's Employees who during a Training Plan period fill employment positions that existed as of the date of a Program grant application but which such employment positions were unfilled as of such date.

"Mandatory Training" means training required in order to prepare an employee to fulfill job duties and adhere to company policies, including, for example, new hire orientation in which the employer explains company policies.

"Net New Jobs" means in the context of New Employee training:

The number of New Employees at the end of a Training Plan that is in excess of the number of existing Arizona Employees (if any) specified on the Program grant application; or

The number of Employees at the end of a Training Plan that is in excess of the number of Employees listed on an Employer's payroll before any layoffs or force reductions occurring during the 12-month period preceding the date of a Program grant application.

"New Employees" means Employees of a new or expanding business who are employed in Arizona by an Employer in Net New Jobs following submission of a Program grant application.

"On-The-Job Training" means training provided to a registered apprentice participating in a program registered with the Arizona Apprenticeship Office.

"Owner" means the owner of an equity interest in the Employer.

"Professional Services" means services an individual, business or organization provides to an employer to assess, review, design, develop, customize and update an employer's business processes for a fee.

"Program" means the Arizona Job Training Program established pursuant to A.R.S. §§ 41-1541 - 1544.

"Qualified Training Provider" means an educational institution listed in A.R.S. § 41-1541(F) or an individual or entity has a written statement from the Employer attesting to the trainer's competence to provide training for job-specific skills. The term "Qualified Training Provider" may include an Employer-grantee.

"Qualifying Wage Rate" means as described in Section 2(b)(1).

“Research and Development Facility” means an Employer if more than fifty per cent of the Employer’s business activity is qualifying research and development as defined under section 41 of the Internal Revenue Code.

"Rural Employer" means an Employer located within a “rural area” as defined under A.R.S. § 41-1544(J)(1).

“Skill Certificate” means an educational credit, certification or award issued by a Qualified Training Provider in recognition of an employee attaining a measurable technical or occupational skill necessary to gain employment or advancement within the employee’s occupation or profession.

"Small Employer" means an Employer that, as of date of submission of a Program grant application, employs fewer than one hundred employees at all locations within and without Arizona.

“Substantially Complete” means, in respect to a Program grant application, that the application materials are sufficient for the Authority to determine the applicant’s eligibility and the amount of the requested grant.

"Training Plan" means the information submitted to the Authority relating to the Employees proposed to be trained and the nature, timing and cost of the proposed training.

"Urban Employer" means an Employer that is not a Rural Employer.

- Schedule 1 Allowable Training Expenses, Permissible Employer Match Contributions
- Schedule 2 Per-Employee Scoring Calculation for New Employee Training Grants

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Schedule 1
Allowable Training Expenses, Qualifying Employer Match

1. Program grant funds may be paid to reimburse only allowable training expenses. The following are allowable training expenses:
 - a. Charges assessed by unaffiliated Qualified Training Providers;
 - b. Training material purchases and productions;
 - c. Training facility rental expenses not to exceed 25 percent of a total grant award;
 - d. Hourly wages of in-house Qualified Training Providers;
 - e. On-The-Job Training costs not to exceed 25 percent of the base wage of an Employer's employee who provides On-The-Job Training to a registered apprentice under a grant;
 - f. Travel costs (exclusive of food and beverage) not to exceed ten percent of a total grant award;
 - g. Other expenses that, in the Authority's determination, comport with the intent of the Program with respect to the use of grant funds.

2. The following, without limitation, are not allowable training expenses:
 - a. Any expense that is not incurred directly with an instructional cost.
 - b. Trainee wages or fringe benefits including tuition reimbursement;
 - c. Trainer fringe benefits;
 - d. Employer costs to complete a Program application or manage a Program grant;
 - e. Expenses for recruiting an Employee;
 - f. Training expenses for an Employer officer or partner, except for an Owner in the context of a Small Employer;
 - g. A signing bonus;
 - h. Food and beverage expenses;
 - i. Expenses for relocating an employee;
 - j. Professional Services;
 - k. Expenses for assessing the training needs of an Employer's employees;
 - l. Drug or other testing for employee screening or prescreening purposes;
 - m. Conference, workshop, online training, or seminar expenses not resulting in a Skill Certificate;
 - n. Trade show expenses;
 - o. On-The-Job training for an Employee that is not a registered apprentice;
 - p. Mandatory Training or regulatory continuing education training required to retain an Employee's certification or degree;
 - q. Training that is not job specific; or
 - r. Any expense that is not incurred and paid for directly by the Employer with the exception of travel costs paid by an Employee and reimbursed by the Employer.

Schedule 1
Allowable Training Expenses, Qualifying Employer Match

3. An Employer receiving Program funding must provide at least 25 percent of the cost of training in the case of New Employee training or at least 50 percent of the cost of training in the case of Incumbent Employee training. These amounts are referred to as the Employer Match. The following are expenditures (including in-kind expenditures) that qualify as an Employer Match if paid or contributed by the Employer:
 - a. Allowable training expenses set forth in Section 1 of this Schedule 1 the costs of which are not reimbursed by Program funds;
 - b. The pro rated value of Equipment used in training activities;
 - c. The pro rated value of space at an Employer's place of business used during training activities;
 - d. Employee-trainee wages (excluding fringe benefits) paid during training by a Small Employer or a Rural Employer;
 - e. Federally or state mandated programs, training, or annual recertification, such as EEO or OSHA.

Schedule 2
Per-Employee Scoring Calculation for
New Employee Training Grants

A. General - Allocation of Points

1. Industry or Facility Type. An Employer-applicant will receive 20 points if the Employer is one or more of the following:
 - a. An Export-Oriented Business,
 - b. A Headquarters,
 - c. A Research and Development Facility, or
 - d. A Cluster Industry.

2. Wage Level. The average wage of an Employer's Net New Jobs for which training funds are sought must be at least equal to the Qualifying Wage Rate. See Rules Section 2(B)(1). If the average wage level of Employee-trainees *exceeds* the Qualifying Wage Rate, the Employer-applicant will receive points as follows:
 - a. 20 points if the average annual wage of all New Employees in Net New Jobs is 100 to 105 percent of the Qualifying Wage Rate;
 - b. 30 points if the average annual wage of all New Employees in Net New Jobs is more than 105 percent but not more than 110 percent of the Qualifying Wage Rate;
 - c. 40 points if the average annual wage of all New Employees in Net New Jobs is more than 110 percent but not more than 120 percent of the Qualifying Wage Rate;
 - d. 50 points if the average annual wage of all New Employees in Net New Jobs is more than 120 percent but not more than 130 percent of the Qualifying Wage Rate; or
 - e. 60 points if the average annual wage of all New Employees in Net New Jobs is more than 131 percent of the Qualifying Wage Rate.

3. Number of Net New Jobs by Small Employers. If a Small Employer has fewer than 100 Employees at the time of an application, the Small Employer-applicant will receive points for the number of anticipated Net New Jobs as follows: (If the Employer receives points under this subsection, the Employer cannot receive points under subsection (A)(4) below.)
 - a. 10 points if the Employer creates five or fewer Net New Jobs;
 - b. 20 points if the Employer creates six to 10 Net New Jobs;
 - c. 30 points if the Employer creates 11 to 15 Net New Jobs;
 - d. 40 points if the Employer creates 16 to 20 Net New Jobs; or
 - e. 50 points if the Employer creates 21 or more Net New Jobs.

Schedule 2
Per-Employee Scoring Calculation for
New Employee Training Grants

4. Number of Net New Jobs by Other Employers. If an Employer has 100 or more employees at the time of an application, the Employer-applicant will receive points for the number of anticipated Net New Jobs as follows: (If the Employer receives points under this subsection, the Employer cannot receive points under subsection (A)(3) above.)
 - a. 10 points if the Employer creates 25 or fewer Net New Jobs;
 - b. 20 points if the Employer creates 26 to 50 Net New Jobs;

 - c. 30 points if the Employer creates 51 to 75 Net New Jobs;
 - d. 40 points if the Employer creates 76 to 100 Net New Jobs; or
 - e. 50 points if the Employer creates 101 or more Net New Jobs.

B. Calculation of Grant Amount. The Authority will:

1. Award the minimum per-Employee trainee grant amount to an Employer with a score of at least 30 points.
 - a. Minimum Per Employee-Trainee Amounts. For this purpose, the minimum per-Employee trainee grant amount is:
 - i. Small Employers: \$5,000
 - ii. Other Employers:
 - A. Urban Employers: \$2,000
 - B. Rural Employers: \$5,000
2. Increase the per Employee-trainee grant amount by \$30 for each point received in excess of 30 points
3. In no event will the per Employee-trainee amount exceed the maximum per Employee-trainee amount applicable for any New Employee training grant as specified in Rules Section 3(E)(2)(a).