

TITLE 85, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1C

NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT

Community Development Assistance Act Rules and Regulations

Adopted: April 13, 2015

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NEBRASKA ADMINISTRATIVE CODE

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APPROVED

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TITLE 85 – DEPARTMENT OF ECONOMIC DEVELOPMENT

Chapter 1C – Community Development Assistance Act Rules and Regulations

001. Scope and Authority.

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

002. Definitions.

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

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

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

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

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

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

village performing Community Services or offering Community Assistance in a Community Development Area.

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

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

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

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

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

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

003. Eligible Applicants under the Act.

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

004. Content of the Application.

004.01 The Application must include all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

006. Eligible Contributions.

006.01 Eligible Contributions.

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

007. Requesting of Tax Credits by Contributors.

007.01 Form CDAA 1 – Tax Credit Request Form.

After an Individual or Business Firm makes a contribution to a Community Betterment Organization for a project or program that has been certified for Tax Credit status by the Department, such Individual or Business Firm may apply to the Department for a Tax Credit.

Application for a Tax Credit shall occur by submission to the Department, Form CDAA 1 – Tax Credit Request Form, with documentation evidencing the contribution made to the project or program that was certified for Tax Credit status by the Department.

008. Documentation and Valuation of Contributions.

008.01 Documentation of Contributions.

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

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

008.01B Contribution of real property – Real property contributions may be shown by the deed and documentation of at least one independent appraisal of the real property by a real property appraiser credentialed

under the Nebraska Real Property Appraiser Act, Neb. Rev. Stat. §§76-2201 to 76-2250.

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

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

008.01E Contribution of Stock – Stock contributions must be converted into cash before the Community Betterment Organization receives the donation. Stock contributions may be shown as cash contributions as provided in 008.01A.

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

008.02 Valuation of Contributions.

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

008.03 Qualification as Charitable Contribution for Federal Income Tax.

The Act requires that Tax Credits for contributions made to a project or program that was certified for Tax Credit status by the Department be for contributions which may qualify as a charitable contribution deduction on the federal income tax return filed by the Business Firm or Individual making such contributions.

In addition to documentation required by Section 8.01 of these Rules and Regulations, the Department may require documentation from Business Firms or Individuals that demonstrates that contributions made to programs or projects

approved and certified by the Department for Tax Credit Status may qualify as a charitable contribution deduction on the federal income tax return filed by the Business Firms or Individuals.

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

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

010. Other Requirements and Limitations.

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

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

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

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

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

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

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

011. Program Guidelines; Other Programmatic Requirements.

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

APPROVED
DOUGLAS J. PETERSON
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MAY 12 2015

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BY
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