

NEBRASKA

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DEPARTMENT OF LABOR

Pete Ricketts, Governor



July 11, 2022

eMailed to: dhughes@leg.ne.gov

Senator Dan Hughes, Chair
Executive Board of the Legislative Council
1445 K Street
P.O. Box 94604
Lincoln, NE 68509

Attached please find the Nebraska Department of Labor's (NDOL) Guidance Document and Guidelines for Use of the American Rescue Plan Act (ARPA) funds allocated to NDOL. This information is available on the NDOL website at <https://www.dol.nebraska.gov/StatutesAndRegulations/GuidanceDocuments>.

Sincerely,

A handwritten signature in blue ink that reads "Katie Thurber".

Katie Thurber
General Counsel

Guidance Document

Pursuant to Neb. Rev. Stat. §84-901.03

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operation of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedures Act. If you believe that this guidance document imposes additional requirement or penalties on regulated parties, you may request a review of the document.

Guidelines for Use of American Rescue Plan Act of 2021 Funds Allocated to the Nebraska Department of Labor Under LB 1014e

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DISCLAIMER

This Guidance Document is not intended to take the place of the law but is intended to provide guidelines for the allocation and use of American Rescue Plan Act of 2021 funds allocated to the Nebraska Department of Labor for distribution through the Nebraska Worker Training Board.

OVERVIEW OF ALLOCATION OF NDOL ARPA FUNDS

The American Rescue Plan Act of 2021 (“ARPA”) created the Coronavirus State Fiscal Recovery Fund (“CSFRF”), which provides funds to equip state governments with resources to respond to the COVID-19 pandemic and its economic effects. In relevant part, ARPA Final Rule, Page 4, 5, 116, and 184 authorizes use of the CSFRF:

- “ To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;”
- “ To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers,” and
- “ [Eligible beneficiaries are] individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work,” and
- “ Funds may be used to provide worker retention incentives, which are designed to persuade employees to remain with the employer as compared to other employment options.”

42 U.S.C. 802(c); 31 CFR §35.6.

In LB 1014e Section 15, the Nebraska Legislature allocated to the Nebraska Department of Labor (“NDOL”) 10 million dollars (“NDOL ARPA Funds”) from the CSFRF for “worker training programs administered by the Department of Labor and distributed through the recommendation of the Nebraska Worker Training Board pursuant to the guidelines established in section 48-622.03.”

The Nebraska Worker Training Board (NWTB) is established by *Neb. Rev. Stat.* §48-622.03 to provide guidance for the distribution of the Nebraska Training and Support Cash (NTSC) Fund for purposes enumerated in 48-622.02. Among those enumerated purposes are:

- Support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses.
- Recruitment of workers to Nebraska.
- Training new employees of expanding Nebraska businesses.

- Payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund (UTF) and of the State Unemployment Insurance Trust Fund so require.

Neb. Rev. Stat. §48-622.02.

These Guidelines for Use of American Rescue Plan Act of 2021 Funds Allocated to the Nebraska Department of Labor Under LB 1014e (“Guidelines”) establish a framework for distribution of the NDOL ARPA Funds through the NWTB. The NDOL ARPA Funds will be used to respond to the negative economic effects of the COVID-19 pandemic through four programs:

1. **Program 1: Teacher Recruitment and Retention Grants:** Four million dollars in NDOL ARPA Funds are allocated for grants to educational employers and childcare providers to provide premium pay to support the recruitment and retention of (1) educators in the subject areas of mathematics, science, and career and technical education; and (2) childcare and early childhood education providers.
2. **Program 2: Nursing Recruitment and Retention Grants:** Four million dollars in NDOL ARPA Funds are allocated for grants to healthcare employers to provide premium pay to support the recruitment and retention of registered nurses, licensed practical nurses, and certified nursing assistants who work in eligible practice settings.
3. **Program 3: Workforce Development Grants:** Two million dollars in NDOL ARPA Funds are allocated for grants to businesses, non-profits, educational institutions, and other entities to provide eligible employment-related services to unemployed workers, underemployed workers, and other populations who suffered economic harm due to COVID-19 pandemic.
4. **Program 4: Transfer to UTF:** Funds initially allocated to another program identified in Paragraphs 1 through 3 above that have not been obligated on or before June 1, 2024, shall be transferred into the UTF to replenish the portion of the UTF available for payment of UI benefits to its pre-pandemic level and to support payment of unemployment insurance benefits to unemployed workers. This amount shall not exceed \$4,121,577.29.
5. The NWTB may reallocate funds among the programs described in Paragraphs 1 through 3 above if the amount of approved grant applications received on or before October 2, 2023, in a program category is less than the amount of funds allocated to that program category.

Each of these programs has a program-specific portion of the Guidelines. In addition, Programs 1, 2, and 3 are also governed by additional common Guidelines.

All recipients of NDOL ARPA funds will also be required to sign an award agreement containing additional terms and conditions and are responsible for complying with all applicable state and federal law, including guidance from the United States Department of Treasury, regarding use of ARPA Funds.

GUIDELINES FOR PROGRAM 1: TEACHER RECRUITMENT AND RETENTION GRANT AWARDS

I. *Program Overview*

Teacher Recruitment and Retention Grant (“TRRG”) awards will fund premium pay as part of a strategy to support recruitment and retention of educators in high-demand positions. Premium pay will target (1) educators teaching at the middle-school or secondary-school level in the fields of mathematics, science, and career and technical education; and (2) childcare and early childhood education providers. TRRG award recipients will be Nebraska schools, school districts, and licensed childcare and preschool programs. These recipients will commit to provide training and professional development to support the retention of the employees eligible for premium pay. TRRG funds will be used to make lump sum payments of premium pay wages between \$1,250-\$2,500 (depending on length of service) to eligible employees.

II. *Eligibility Requirements*

A. Recipient eligibility requirements

1. An applicant must be (1) a school or school district providing in-person instruction for middle-school or secondary-school students in Nebraska; or (2) a childcare center or preschool licensed by the Nebraska Department of Health and Human Services. Both public and non-public institutions are eligible for TRRG awards.
2. An applicant must identify positions for which it is requesting premium pay that provide eligible services (“PP Eligible Positions”). Eligible services are:
 - a. In-person instruction at the middle-school or secondary-school level in:
 - i. Mathematics
 - ii. Science
 - iii. Career and Technical Education
 - b. Childcare or early childhood education services provided as a staff member or teacher at a childcare center or preschool licensed by the Nebraska Department of Health and Human Services.
 - c. If any NDOL ARPA Funds allocated for TRRG awards remain unreserved as of January 1, 2023, these Guidelines may be amended to expand eligibility for premium pay to additional educators.
3. An applicant must have experienced challenges hiring or retaining qualified teachers or childcare providers due to the COVID-19 pandemic. A recipient receiving a TRRG award in response to challenges hiring or retaining qualified employees shall be

considered a beneficiary of NDOL ARPA Funds.

4. An applicant must demonstrate a commitment to provide training and professional development during the 2022-2023 and 2023-2024 school years to support retention of employees in PP Eligible Positions.
5. As a condition of receiving a TRRG award, an applicant must sign an award agreement and agree to additional terms and conditions.

B. Eligibility requirements for individuals receiving premium pay

Funds received through a TRRG award will be used to provide premium pay to eligible employees. The following criteria govern the eligibility for premium pay:

1. The individual must provide eligible services in-person as an employee of a recipient school, school district, licensed childcare center, or licensed preschool program.
2. The individual's total pay from the recipient employer for 2023 must not be more than \$78,165.00 (150 percent of Nebraska's state average annual wage for all occupations as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Survey).
3. The individual must satisfy applicable retention requirements:
 - a. The individual must be working in a PP Eligible Position no later than September 1, 2023.
 - b. The individual must continue working in (or be on approved leave from) a PP Eligible Position at the same recipient employer on the PP Certification date of January 9, 2024.
 - c. As of the PP Certification Date, the individual must be under contract to teach in the PP Eligible position at the same recipient employer through the end of the 2023-2024 school year. This requirement does not apply to any PP Eligible Position which the recipient employer does not treat as a contract position.
4. If all eligibility requirements are satisfied, the amount of premium pay shall be:
 - a. \$2,500 if the individual started a PP Eligible position on or before December 31, 2022.
 - b. \$1,250 if the individual started a PP Eligible position between January 1, 2023, and September 1, 2023.
 - c. An educator who moves from one PP Eligible position at a recipient employer to another PP Eligible position at the same recipient employer shall be deemed to have

occupied the latter position continuously for the time in both positions.

III. *Application Process, Selection Process, and Initial Award Notification*

- A. An applicant shall apply for a TRRG award using a form created and made available by NDOL.
- B. Each application must include a short narrative statement identifying the applicant's plan to use training and professional development to support retention of teachers in PP Eligible Positions.
- C. Each application must identify the total amount of funding the applicant is requesting NDOL to reserve. The amount requested shall not be more than:
 - 1. \$2,500 for each PP Eligible Position expected to be filled with an eligible educator by December 31, 2022.
 - 2. \$1,250 for each PP Eligible Position expected to be filled with an eligible educator between January 1, 2023, and September 1, 2023.
- D. The application made available by NDOL will include a PP Request and Justification Form, which each applicant must complete. An applicant applying for a TRRG award on behalf of more than one facility must submit a separate PP Request and Justification Form for each facility. Each form must:
 - 1. Certify that the facility has experienced challenges hiring or retaining employees due to the COVID-19 pandemic and provide a short narrative statement describing these challenges.
 - 2. Provide identifying information (as specified by NDOL) about each PP Eligible Position and the amount of premium pay (\$2,500 or \$1,250) that the applicant requests for the position.
 - 3. State whether each PP Eligible Position is vacant or filled at the time of application. For each filled position, provide identifying information (as specified by NDOL) about the individual filling the position, including the expected total pay for the educator for 2023 or, if that number is not available, a certification that it is expected that the total pay to the educator will not exceed \$78,165.00 for 2023.
- E. The Commissioner of Labor shall designate an evaluation committee to review all TRRG applications. This evaluation committee shall review each application to: Determine whether the applicant meets eligibility requirements.
 - 1. Determine whether each position for which the applicant has requested that premium pay be reserved meets requirements of a PP Eligible Position.

2. Calculate the amount of funds that should be reserved for all PP Eligible Positions.
- F. Based on the review of the evaluation committee and the availability of allocated funds, the Commissioner of Labor shall make recommendations for TRRG awards, giving priority to eligible applications submitted earliest.
- G. The NWTB shall review the Commissioner of Labor's recommended TRRG awards for compliance with these Guidelines.
- H. The evaluation committee shall review applications, and the Commissioner of Labor shall make recommendations, on a rolling basis. The NWTB shall approve awards recommended by the Commissioner of Labor at its scheduled quarterly meetings. NDOL shall continue to accept applications once all funds allocated to this program have been reserved but such applications should be approved only if additional TRRG award funds become available, either because funds reserved to an employer are de-obligated or because the NWTB reallocates funds from another program.
- I. If all funds are not reserved by January 1, 2023, these Guidelines may be amended to expand eligibility for premium pay to other educational employees.
- J. The application process for TRRG awards will close no later than October 2, 2023, even if not all funds allocated for TRRG awards have been reserved by this date.
- K. For each TRRG award approved by the NWTB, an Initial Award Notification shall be issued to the recipient healthcare employer. This notification shall identify the total amount of premium pay reserved for the recipient, the positions for which premium pay has been reserved, and the amount of premium pay reserved for each position.

IV. *Reporting, Final Award Notification, and Payment*

- A. Each recipient school or school district must submit a report to NDOL within 15 days of the end of each calendar quarter using a form and method prescribed by NDOL. The report shall include as to each position included in the Initial Award Notification:
 1. Whether the position is currently filled.
 2. For any filled position, information (as specified by NDOL) about the educator in the position, including the expected total pay for the educator for the 2023-2024 school year.
- B. On or before January 15, 2024, each recipient employer shall submit a PP Certification using a form and manner prescribed by NDOL. This PP Certification shall:
 1. Include a list of all individuals in positions listed in the Initial Award Notification who the recipient certifies have met eligibility requirements as of the PP Certification Date of January 9, 2024. For each certified individual, the list should include:

- a. The first date on which the individual worked in a PP Eligible Position.
 - b. A statement that the individual remained employed as of the PP Certification Date.
 - c. A statement that the individual is under contract in a PP Eligible Position through the end of the 2023-2024 school year or a statement that the individual is in a position for which the recipient employer does not offer a contract.
 - d. The amount of total pay the recipient employer provided to the worker for 2023.
2. State the total amount of premium pay supported by the certified list.
 3. Submit documentation as requested by NDOL.
- C. After reviewing the PP Certification submitted by a recipient employer, NDOL will issue a Final Award Notice that will identify the total amount of funds being awarded and the total premium pay that should be paid to each eligible individual. Funds will then be transferred to the recipient employer for use to fund premium pay.
 - D. The recipient employer shall pay lump sum premium pay wages to each eligible individual as specified in the Final Award Notice. The premium pay wages must be in addition to, and must not replace, the compensation the eligible individual would otherwise receive.
 - E. Premium pay is taxable as wage income, and therefore, employers are encouraged to treat the premium pay earned by the employee just as they would other wage income and withhold from the additional pay any required taxes.
 - F. Funds reserved to a recipient employer in an Initial Award Notification but not included in a Final Award Notice shall be de-obligated and shall be awarded to other grant applicants within this category, allocated to another grant program as allowed under these Guidelines, or handled in accordance with the Guidelines for Program 4: Transfer to UTF.

GUIDELINES FOR PROGRAM 2: NURSING RECRUITMENT AND RETENTION GRANT AWARDS

I. *Program Overview*

Nursing Recruitment and Retention Grant (“NRRG”) awards will fund premium pay as part of a strategy to support recruitment and retention of healthcare workers in high-demand positions. Premium pay will target registered nurses (RNs), licensed practical nurses (LPNs), and certified nursing assistants (CNAs) working in eligible practice settings. NRRG award recipients will be healthcare institutions and healthcare systems, and these recipients will commit to provide training and professional development to support the retention of the healthcare workers eligible for premium pay. NRRG funds will be used to make lump sum payments of premium pay wages of \$2,500.00 to RNs, \$1500 to LPNs, and \$1000 to CNAs in eligible positions who remain employed as of January 9, 2024.

II. *Eligibility Requirements*

A. Healthcare employer eligibility requirements

1. The applicant for a NRRG award must be a healthcare institution or healthcare system with at least one location in Nebraska where direct patient care is provided is provided by RNs, LPNs, or CNAs.
2. An applicant must identify eligible positions for which it is requesting premium pay. Eligible positions (“PP Eligible Positions”) must be filled by a licensed RN, LPN, or CNA and must be in one of the following eligible healthcare settings:
 - a. A hospital;
 - b. A nursing home or other long-term care facility;
 - c. A rehabilitation center;
 - d. A residential treatment center;
 - e. A primary-care office;
 - f. An urgent-care clinic;
3. The applicant must have experienced challenges hiring or retaining RNs, LPNs, or CNAs due to the COVID-19 pandemic. A healthcare employer receiving an NRRG award in response to challenges hiring or retaining qualified nurses shall be considered a beneficiary of NDOL ARPA Funds.
4. An applicant must demonstrate a commitment to provide training and professional development to support retention of healthcare workers in PP Eligible Positions.

5. As a condition of receiving a NRRG award, an applicant must sign an award agreement and agree to additional terms and conditions.

B. Eligibility requirements for healthcare workers receiving premium pay

1. Funds distributed under an NRRG award shall be used solely to support premium pay for eligible healthcare workers employed by recipient healthcare employers.¹ To be eligible for premium pay, a healthcare worker must be a licensed RN, LPN, or CNA and must:

- a. Provide in-person patient care in a PP Eligible Position as an employee of a recipient healthcare employer.

- b. Satisfy the following retention requirements:

- i. Be in a PP Eligible Position no later than September 1, 2023.

- ii. Continuously remain in the PP Eligible Position through the PP Certification Date (January 9, 2024) except for any period during which the healthcare worker is on approved leave.

2. If all eligibility requirements are satisfied, the amount of premium pay shall be:

- a. \$2,500.00 for an RN in a PP Eligible Position.

- b. \$1500.00 for an LPN in a PP Eligible Position.

- c. \$1,000.00 for a CNA in a PP Eligible Position.

III. *Application Process, Selection Process, and Initial Award Notification*

A. An applicant shall apply for an NRRG award using a form created and made available by NDOL.

B. Each application shall include a short narrative statement identifying the applicant's plan to use training and professional development to support retention of healthcare workers in PP Eligible Positions.

C. The application made available by NDOL will include a PP Request and Justification Form, which each applicant must complete. A healthcare system applying for a NRRG award on behalf of more than one practice location must submit a separate PP Request and

¹ Pursuant to guidance from the United States Department of Treasury, NDOL has determined that awarding premium pay to RNs, LPNs, and CNAs in all PP Eligible Positions will respond to the effects of the COVID-19 pandemic, without regard to income level or exemption status under the Fair Labor Standards Act of the premium pay recipient, because of the significant workplace risks these healthcare workers have encountered during the COVID-19 pandemic and because of the corresponding difficulties healthcare employers have faced when recruiting and retaining healthcare workers in these positions.

Justification Form for each practice location and must:

1. Certify that the practice location has experienced challenges hiring or retaining RNs, LPNs, or CNAs due to the COVID-19 pandemic and provide a short narrative statement describing these challenges.
 2. Provide identifying information (as specified by NDOL) about each PP Eligible Position for which premium pay is being requested and the amount of premium pay requested for each position.
 3. State whether each position requested is vacant or occupied at the time of application. For each filled position, provide identifying (as specified by NDOL) about the healthcare worker in the position.
- D. Each application must identify the total amount of funding the applicant requests that NDOL reserve for the applicant, which shall not be more than:
1. \$2,500.00 for each PP Eligible Position expected to be occupied by an eligible RN on the PP Certification Date.
 2. \$1500.00 for each PP Eligible Position expected to be occupied by an eligible LPN on the PP Certification Date.
 3. \$1,000.00 for each PP Eligible Position expected to be occupied by an eligible CNA on the PP Certification Date.
- E. The Commissioner of Labor shall designate an evaluation committee to review all NRRG applications. This evaluation committee shall review each application to:
1. Determine whether the applicant meets eligibility requirements.
 2. Determine whether each position for which the applicant has requested that premium pay be reserved meets requirements of a PP Eligible Position.
 3. Calculate the amount of funds that should be reserved for all PP Eligible Positions.
- F. Based on the review of the evaluation committee and the availability of allocated funds, the Commissioner of Labor shall make recommendations for NRRG awards, giving priority to eligible applications filed earliest.
- G. The NWTB shall review the Commissioner of Labor's recommended NRRG awards for compliance with these Guidelines.
- H. The evaluation committee shall review applications, and the Commissioner of Labor shall make recommendations, on a rolling basis. The NWTB will vote on awards recommended by the Commissioner of Labor at its scheduled quarterly meetings. NDOL shall continue

to accept applications once all funds allocated to this program have been reserved but such applications should be approved only if additional TRRG award funds become available, either because funds reserved to an employer are de-obligated or because the NWTB reallocates funds from another program.

- I. If all funds are not reserved by January 1, 2023, these Guidelines may be amended to expand eligibility for premium pay to other healthcare providers.
- J. The application process for NRRG awards will close no later than October 2, 2023, even if not all funds allocated for NRRG awards have been reserved by this date.
- K. For each NRRG award approved by the NWTB, an Initial Award Notification shall be issued to the recipient healthcare employer. This notification shall identify the total amount of premium pay reserved for the recipient, the positions for which premium pay has been reserved, and the amount of premium pay reserved for each position.

IV. *Reporting and Payment Process*

- A. Each recipient healthcare employer must submit a report to NDOL within 15 days of the end of each calendar quarter using a form and method prescribed by NDOL. The report shall include for each position listed in the Initial Award Notification:
 - 1. Whether the position is currently filled or vacant.
 - 2. For any filled position, information (as specified by NDOL) about the healthcare worker in the position.
- B. On or before January 15, 2024, each recipient healthcare employer must submit a PP Certification using a form and manner prescribed by NDOL. This PP Certification shall:
 - 1. Include a list of all healthcare workers in positions listed in the Initial Award Notification who the recipient certifies have met eligibility requirements as of the PP Certification Date of January 9, 2024. For each certified healthcare worker, the list should include:
 - a. The first date on which the individual worked in a PP Eligible position.
 - b. A statement that the individual remains employed as of the PP Certification Date.
 - 2. State the total amount of premium pay supported by the certified list.
 - 3. Include any supporting documentation requested by NDOL.
- C. After reviewing the PP Certification submitted by a recipient healthcare employer, NDOL will issue a Final Award Notice that will identify the total amount of funds being awarded to the recipient healthcare employer and the total premium pay that should be paid to each

eligible healthcare worker. Funds will then be transferred to the recipient healthcare employer for use to fund premium pay for the approved healthcare workers.

- D. The recipient healthcare employer shall pay lump sum premium pay wages to each eligible healthcare worker as specified in the Final Award Notice. The premium pay wages must be in addition to, and must not replace, the compensation the eligible healthcare worker would otherwise receive.
- E. Premium pay is taxable as wage income, and therefore, employers are encouraged to treat the premium pay earned by the employee just as they would other wage income and withhold from the additional pay any required taxes.
- F. Funds reserved to a recipient healthcare employer in an Initial Award Notification but not included in a Final Award Notice shall be de-obligated and shall be awarded to other grant applicants within this category, allocated to another grant program as allowed under these Guidelines, or handled in accordance with the Guidelines for Program 4: Transfer to UTF.

GUIDELINES FOR PROGRAM 3: WORKFORCE DEVELOPMENT GRANT AWARDS

I. *Program Overview*

Workforce Development Grant (“WDG”) awards will fund projects intended to provide employment-related services to individuals in populations that suffered adverse economic effects due to the COVID-19 pandemic. Businesses, non-profits, educational institutions, and other entities that provide job-related training or career services can apply for funding to support efforts to bring eligible individuals back into the workforce or to facilitate their career advancement through job training, reskilling, and upskilling.

II. *Project Eligibility Requirements*

- A. An applicant for a WDG award may be:
 - 1. A business
 - 2. An industry consortium
 - 3. A labor union
 - 4. A non-profit
 - 5. An institution of higher education
 - 6. A county or municipal government
 - 7. A federal Workforce Innovation and Opportunity Act (WIOA) administrative entity.
 - 8. Any other entity providing training, apprenticeship, or other employment-support services or connecting individuals to these services.
- B. An applicant must propose an eligible WDG project. An eligible WDG project must provide members of an eligible population with eligible employment services.
 - 1. An eligible population for a WDG project must have suffered negative economic effects due to the COVID-19 pandemic. Eligible populations are:
 - a. Those who want and are available for work, including those who are unemployed, have looked for work sometime in the past 12 months, who are employed part-time but who want and are available for full-time work, or who are employed but seeking a position with greater opportunities for economic advancement.
 - b. Households and populations residing in a qualified census tract.

- c. Households and populations receiving services provided by Tribal governments.
 - d. Households with income at or below 300 percent of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines.
 - e. Households that qualify for Temporary Assistance for Needy Families (42 U.S.C. 601 et seq.), the Supplemental Nutrition Assistance Program (7 U.S.C. 2011 et seq.), Free and Reduced Price School Lunch and/or Breakfast programs (42 U.S.C. 1751 et seq. and 42 U.S.C. 1773), Medicare Part D Low-income Subsidies (42 U.S.C. 1395w-114), Supplemental Security Income (42 U.S.C. 1381 et seq.), Head Start (42 U.S.C. 9831 et seq.), Early Head Start (42 U.S.C. 9831 et seq.), the Special Supplemental Nutrition Program for Women, Infants, and Children (42 U.S.C. 1786), Section 8 Vouchers (42 U.S.C. 1437f), the Low-Income Home Energy Assistance Program (42 U.S.C. 8621 et seq.), or Pell Grants (20 U.S.C. 1070a).
2. Eligible services for a WDG project are:
- a. Job training for members of an eligible population.
 - b. Vocational or job-skill-focused education for member of an eligible population leading to an industry-recognized credential or certification.
 - c. Stipends for members of an eligible population while in vocational or job-skill-focused education.
 - d. Career services and job coaching for members of an eligible population.
 - e. Job fairs targeted to members of an eligible population.
 - f. Employer recruitment of members of an eligible population.
 - g. Incentives to businesses to hire members of an eligible population.
 - h. Providing subsidized employment for members of an eligible population.
 - i. Apprenticeships and pre-apprentice programs for members of an eligible population.
 - j. Combined education and on-the-job training programs for members of an eligible population.
 - k. Assistance to members of an eligible population to start small businesses.
 - l. Support services to members of an eligible population to accelerate rehiring, such

as childcare assistance, assistance with transportation to and from a jobsite or interview, and incentives for newly employed workers.

- C. A WDG project may provide eligible services from one category or may combine eligible services from multiple categories.
- D. Eligible services must be provided (1) to members of eligible populations who reside or work in Nebraska at the time of the services; or to (2) to encourage members of eligible populations residing outside Nebraska to join the workforce in Nebraska.
- E. A WDG award recipient will be a subrecipient of federal funds and must comply with all provisions of state and federal law applicable to a subrecipient of federal grant funds.
- F. A WDG recipient shall be required to provide NDOL performance and financial reports as specified in the award agreement and as required by law.

III. *Application Process*

- A. An applicant shall apply for a WDG Award using an application form provided by NDOL
- B. All applications must be submitted no later than June 30, 2023.
- C. Each application must include a detailed plan for an eligible WDG project.
- D. Each application must specifically identify how the applicant would use WDG funds to provide eligible employment services to benefit members of an eligible population and shall identify specific outcome measures for members of that eligible population.
- E. Each application must state how the proposed project aligns with the purposes of the Nebraska Worker Training and Support Cash Fund established by Nebraska Revised Statute §48-622.02
- F. Each application must identify the amount of WDG Funds being requested and must be accompanied by a detailed budget outlining the costs of the proposed program and a breakdown of how the WDG Funds would be used if awarded.
- G. All applications shall identify any other funding available to support the proposed project during the grant period and any funding available to continue the proposed project after the grant period. If the application for a WDG award is from a business seeking funds to hire, train, or retain individuals from an eligible population, the application shall state the details of the business's matching contribution, if any.

IV. *Selection and Award Process*

- A. NDOL will review all applications for WDG awards and make recommendations to the NWTB regarding approval of applications.

B. A team of evaluators designated by the Commissioner of Labor will screen all WDG applications for compliance with these Guidelines. The evaluation team, in consultation with the Commissioner of Labor, shall score all applications consistent with the criteria below:

1. **Goals and Corresponding Outcomes:** Projects that identify clear goals to benefit members of eligible populations with measurable outcomes are preferred. Points will be awarded based on the extent to which the application outlines clear, measurable outcomes to demonstrate the positive impact the funding is expected to have on individuals in affected populations.
2. **Responsiveness to COVID-19 Pandemic:** Projects that respond directly to negative economic effects of the COVID-19 pandemic are preferred. Points will be awarded based on the extent to which the application demonstrates that the proposed projects will respond directly to the negative economic effects of the COVID-19 pandemic for eligible populations.
3. **Innovation:** Projects that propose innovation solutions with potential for significant impact are preferred. Points will be awarded based on the extent to which the proposed project demonstrates an innovative approach with potential for significant impact on individuals or the workforce.
4. **Budget and Request for Funds:** Projects that demonstrate a clear plan to use funds for specific, eligible expenses are preferred. Points will be awarded based on the extent to which the budget is clear and detailed and the request for funds is specific and limited to eligible expenses.
5. **Economic Development Impact:** Projects that prepare individuals in eligible populations to enter high wage, high skill, and high demand (H3) industries will receive preference. Points will be awarded based on the extent to which the applicant demonstrates that the project will prepare individuals to enter occupations that are H3, as determined by high wage, high skill, and high demand indicators per region. H3 occupation data is available at networks.nebraska.gov.
6. **Capacity:** Applicants who demonstrate the ability to successfully carry out the program and comply with applicable law in administering federal grant funds will receive preference. Points will be awarded based on evidence that the applicant demonstrates capacity to serve the targeted populations and demonstrates the expertise of staff to implement the program and properly administer federal grant funds.
7. **Other Available Funding:** Projects that are sustainable and demonstrate ongoing commitment to providing services to eligible populations are preferred. For employer-proposed projects, a higher ration of employer contribution will result in additional points. For other projects, demonstration of other funding sources for the project (either during or after the grant period) will result in additional points.

- C. Once all applications are scored, the Commissioner of Labor shall make recommendations regarding which WDG applications should be approved and the amount of the award recommended. The Commissioner of Labor may recommend approving a portion of the funding requested by a particular application. The Commissioner of Labor may adjust the requested funding to (1) exclude requested costs that are not allowable; or (2) to fund only the portion of a proposed project that is determined to best serve the goals of both ARPA and the NWTB.
- D. The NWTB shall review WDG awards recommended by the Commissioner of Labor for compliance with these Guidelines.
- E. For each award approved by the NWTB, NDOL shall issue an Award Notification, notifying the WDG Recipient of the amount of the WDG award approved.
- F. To receive funds, a successful WDG applicant will be required to sign an award agreement containing terms and conditions governing project performance, use of funds, and other obligations. Successful applicants will receive a written agreement to review, sign, and return to NDOL within 30 days.

V. *Limitations on Eligible Program Expenses*

- A. All funds under a WDG award must be obligated by December 31, 2024, and expended by December 31, 2026.
- B. Reimbursement requests must be submitted as a detailed, itemized invoice with supporting documentation as specified by NDOL. Non-itemized receipts or invoices for expenses (that are reimbursed at direct cost instead of per diem) will be rejected.
- C. Allowable costs are limited to reasonable direct costs associated with providing eligible services to members of an eligible population.
- D. Travel costs directly associated with eligible services will be allowed only to the extent consistent with the Federal Travel Regulations as of the date of travel.
- E. If a WDG project proposes use of funds to recruit eligible employees to a particular business or subsidize employment at that business, the following restrictions apply:
 - 1. No WDG funds shall be used for recruitment of an employee who is employed full-time by a Nebraska business.
 - 2. Any allowable hiring or retention bonus shall not exceed \$2,500.00 per eligible employee.
 - 3. Recruitment and retention expenses are allowed only for the hire of permanent employees. Recruitment and retention expenses will be reimbursed only after the new hire has maintained employment with the applicant for 6 months.

4. Allowable recruitment-related expenses shall not include:
 - a. Housing down payments
 - b. Non- Economy Class air travel expenses
 - c. Temporary housing expenses, other than authorized travel related lodging costs
 - d. Lodging expenses that are not reasonable and comparable to the United States General Services Administration and in accordance with Federal Travel Regulations as of the date of travel
 - e. Room service or other lodging incidental expenses
 - f. Customs and immigration fees

- F. If a WDG project proposes use of funds to an employer for worker training, the following restriction apply:
 1. Funding for training of an incumbent worker is an allowable expense only if (1) the worker is seeking advancement for greater economic opportunity; and (2) the funded training, if completed, will provide the incumbent with greater economic opportunity, such as a promotion or a pay increase.
 2. Funds shall not be used for training provided outside the State of Nebraska unless the applicant demonstrates a lack of locally available training.
 3. Allowable training-related expenses shall not include:
 - a. The lease, purchase, or construction of facilities
 - b. The purchase of capital equipment
 - c. Mileage, lodging, meals, and incidentals

**ADDITIONAL GUIDELINES APPLICABLE TO ALL RECIPIENTS OF FUNDS
UNDER PROGRAMS 1, 2, and 3**

- A. All grant recipients must, before and as a condition of receiving NDOL ARPA Funds, sign an award agreement containing additional terms and conditions. All recipients are responsible for complying with the terms and conditions of the award agreement and with these Guidelines.
- B. All NDOL ARPA Funds must be spent in compliance with Nebraska and federal law. Grant recipients under all programs are responsible for complying with all applicable law.
- C. The reporting requirements referenced in these guidelines are not exhaustive of all reporting that may be required from recipients of NDOL ARPA Funds. Recipients must comply with other reporting requirements outlined in the award agreement and must comply with any reporting required by state or federal law. Recipients must commit to assisting NDOL, as necessary, with compliance and quarterly reporting requirements required by the U.S. Department of the Treasury.
- D. Reimbursement of funds will not occur until the applicant has an approved W-9 on file with Nebraska's State Accounting Division. All reimbursements will occur via Electronic Funds Transfer (EFT). No paper checks will be issued.
- E. At the time of application for funds, each recipient must be current on all combined taxes and quarterly wage reports with the Nebraska Department of Labor under the Nebraska Employment Security Law. Failure to pay taxes or report wages during the period of award may result in revocation of an award.

GUIDELINES FOR PROGRAM 4: TRANSFER OF RESIDUAL NDOL ARPA FUNDS TO THE UTF

Under ARPA, a recipient may use funds to make deposits into its account of the UTF established under section 904 of the Social Security Act (42 U.S.C. § 1104) up to an amount equal to (a) the difference between the balance in the recipient's Unemployment Trust Fund as of January 27, 2020 and the balance of such account as of May 17, 2021 plus (b) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021.

Nebraska's UTF contains funds that can be used for payment of benefits and funds that cannot be used for payment of benefits and are reserved solely for administrative expenses. The difference in the balance of the portion of the UTF that is eligible to be used for payment of benefits between January 27, 2020, and May 17, 2021, was \$ 4,121,577.29. This is the amount that ARPA authorizes NDOL to transfer into the UTF for payment of benefits. Use of funds to pay unemployment insurance benefits is also an authorized purpose under *Neb. Rev. Stat.* §48-622.02. Thus, NDOL will transfer residual NDOL ARPA Funds into the UTF pursuant to the following provisions:

- A. Any funds allocated to Program 1 (TRRG Awards) or Program 2 (NRRG Awards) that are not reserved to any employer or reallocated for use in another grant program by January 9, 2024, shall be reserved for transfer to the UTF.
- B. Any funds initially reserved to an employer under Program 1 (TRRG Awards) or Program 2 (NRRG Awards) but de-obligated following submission of the employer's Final PP Certification and not included in the Final Award Notification shall be reserved for transfer to the UTF.
- C. Any funds allocated to Program 3 (WDG Awards) that are not obligated through a sub-award agreement or reallocated for use in another grant program by January 9, 2024, shall be reserved for transfer to the UTF.
- D. On or before June 1, 2024, the Commissioner of Labor shall make a recommendation to the NWTB regarding the amount of NDOL ARPA Funds to be transferred to the UTF for payment of benefits. This recommendation shall include all funds initially allocated to Programs 1, 2, and 3 but reserved for transfer to the UTF under the provisions above, but the amount shall not exceed \$4,121,577.29. The NWTB shall review the Commissioner of Labor's recommendation for compliance with these Guidelines.