

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 5 POST-SECONDARY EDUCATION PROGRAMS
PART 50 INDUSTRIAL DEVELOPMENT TRAINING PROGRAM

5.5.50.1 ISSUING AGENCY: Economic Development Department
[5.5.50.1 NMAC - Rp 5 NMAC 5.50.1, 04-30-2002]

5.5.50.2 SCOPE: The rules apply to New Mexico residents.
[5.5.50.2 NMAC - Rp 5 NMAC 5.50.2, 04-30-2002]

5.5.50.3 STATUTORY AUTHORITY: General management of the industrial development training program shall be the responsibility of the industrial training board as prescribed by governing legislation (Section 21-19-7, NMSA 1978).
[5.5.50.3 NMAC - Rp 5 NMAC 5.50.3, 04-30-2002]

5.5.50.4 DURATION: Permanent
[5.5.50.4 NMAC - Rp 5 NMAC 5.50.4, 04-30-2002]

5.5.50.5 EFFECTIVE DATE: April 30, 2002, unless a later date is cited at the end of a section.
[5.5.50.5 NMAC - Rp 5 NMAC 5.50.5, 04-30-2002]

5.5.50.6 OBJECTIVE: 5.5.50 NMAC is intended to assist the development of New Mexico's economy by providing funds for training projects to prepare New Mexico residents for employment in new and/or expanding companies who manufacture or produce a product in New Mexico. Under some circumstances assistance may be provided to non-retail businesses in the service sector. The principal factor in evaluating proposals from service sector businesses will be the extent to which the service provided by the company will be exported to other states or will reduce the need for importing a service to New Mexico.
[5.5.50.6 NMAC - Rp 5 NMAC 5.50.6, 04-30-2002]

5.5.50.7 DEFINITIONS: [Reserved]

5.5.50.8 REQUIREMENTS FOR FUNDING REQUESTS: Submission of a proposal is a requirement for funding consideration. The proposal consists of the following: an application; a training budget; a training plan; the State of New Mexico unemployment insurance (UI) report for the latest quarter (businesses currently doing business in the State of New Mexico); history/background of the company and a marketing and operations plan; and financial statements from the three (3) previous years manifesting financial solidity.

A. The training plan must include:

- (1) learning objectives, a course description, course goals, a course outline and job descriptions for each position for which the company or public educational institution will provide training;
- (2) the trainer's qualifications to teach the course; and
- (3) the education-training/experience required of the applicants. The training plan must provide quantitative and qualitative performance standards to assure that training is based on special company requirements and can be evaluated for effectiveness.

B. Performance standards may include:

- (1) oral, written or demonstrative tests to determine each trainee's level of knowledge and skills before and after training;
- (2) measures to determine whether company goals and objectives are being met, such as increased customer sales and service and increased production efficiency; and
- (3) trainee wage data showing the benefit of training in higher wages earned. The Industrial Training Board shall verify that the training requirements for which training funds are requested constitutes custom-designed training for unique skills.

C. The application shall provide verification that the training requirements are unique to the applying company and that the training cannot be obtained from the local college or technical-vocational institutions.

D. Each program funded will be evaluated to determine the benefits of the training program to the trainees and the company based on the performance standards and measures identified in the proposal.

Companies with fewer than twenty (20) employees located in a non-metro area or in an economically distressed area (Cibola, Mora, Guadalupe, Rio Arriba, Luna, San Miguel, McKinley and Taos) of New Mexico are eligible for the modified/short-form proposal.

E. The board utilizes a scoring tool in which to rank proposals. The scoring tool includes elements and gives credit to proposals that identify or demonstrate the following:

- (1) Being a headquarter facility,
- (2) Targeted industry for New Mexico (technologically emerging industry, telecommunications, food processing, electronics, component manufacturing, biotechnology, optics, and semiconductors),
- (3) Financially soundness,
- (4) Return on Investment - to include: impact on local/state economy (number of jobs; payroll, average wage which positively impacts county, local wages; increase in household earnings; increase in per capita income; annual local purchases impacting local/state sales taxes; dollar amount of new construction; percentage that product is exported outside of NM; environmental impact; and overall community support),
- (5) Charitable/Community contribution,
- (6) Quality of Jobs/Status of Trainees - jobs will be created in high-tech or emerging occupations; benefits; wages that are higher than county wage and are 50% above national average wage, and are higher than the county OES wage as outlined by the NMDOL, and
- (7) Willingness to hire residents participating in the Workforce Investment Act or other state/federal programs.

[5.5.50.8 NMAC - Rp 5 NMAC 5.50.8, 04-30-2002]

5.5.50.9 PROGRAM DESCRIPTION: Governing legislation provides for two (2) basic types of training projects described under the Industrial Development Training Program: public educational institution classroom training and In-Plant Training (or a combination of the two). Training assistance of up to 1,040 hours (six months) per trainee is available under the program. The O*NET (Occupational Information Network) is used to determine the number of training hours required. The O*NET system is available at the Department of Labor (DOL) website: www.dol.state.nm.us. Go to Links, then to America's Workforce Network, and follow the instructions that will assist you in this process.

A. Public Educational Institution Classroom Training: Training is conducted by a New Mexico public educational institute in a classroom setting, on campus or at the work site, and may be customized to meet the specific needs of the company. In the event that adequate training opportunities are not available through the public institutions, private institutions may be considered. Classroom size and the actual content of training projects may be negotiated with the educational institute and implemented where at least three trainees are enrolled. The institute will provide a separate proposal.

- (1) Trainees must be full time, year-around employees to participate in the training program and must be guaranteed full-time employment with the contracted company upon successful completion of training.
- (2) Payment for classroom training services shall be made only for a qualified and approved program.
- (3) The contracted institution and/or the participating company shall work with the Economic Development Department to establish the contract, its content, scope and standards of the classroom training to ensure that the program meets or exceeds the company's skill requirements.
- (4) Contracts with postsecondary institutions may only include up to five percent overhead charges. However, the company may wish to pay the additional overhead.
- (5) The executed contract shall comply with the governing legislation.

B. In-Plant Training: Training is conducted at the participating company's facility and generally involves on the job training (OJT) and/or "hands-on" skill development. The training must be customized to develop essential skills unique to the company's needs. In-Plant Training projects may be negotiated and implemented where at least three trainees are enrolled. Rural: If a company has fewer than twenty (20) employees and is located in a non-metro or economically distressed (Cibola, Mora, Guadalupe, Rio Arriba, Luna, San Miguel, McKinley and Taos) area of New Mexico, then there is no minimum hiring requirement

- (1) Training must be for full-time, year-around employees to participate in the training program and must be guaranteed full-time employment with the contracted company upon successful completion of training.
- (2) The participating company is responsible for providing the necessary facilities, equipment, materials and training staff.
- (3) The contracted company shall work with the Economic Development Department to establish the contract, its content, scope and standards of the training to ensure that the program meets or exceeds the company's

skill requirements.

- (4) The executed contract shall comply with governing legislation.

C. Retraining: No retraining of current company employees is allowed under the program. Only new hires are eligible.

[5.5.50.9 NMAC - Rp 5 NMAC 5.50.9, 04-30-2002]

5.5.50.10 PROGRAM REQUIREMENTS AND QUALIFICATIONS: The following requirements are established for companies and trainees in compliance with governing legislation to assure maximum control and success in the implementation of the industrial development training program.

A. Trainee Qualifications and Requirements:

(1) Training applicants must be new hires and must have resided within the state for a minimum of one year immediately prior to the commencement training.

(2) All trainees must have completed the training in order for the business to receive funding.

(3) All applicants must be eligible under the Federal Fair Labor Standards Act.

(4) Company supervisors, management, administrative and professional positions, are ineligible to participate in the program as trainees. Only employees classified as labor production workers, manufacturers, customer service representatives, reservation clerks, etc. are eligible.

(5) Training may not exceed the hours agreed to in the final contract, and shall not exceed 1,040 hours/trainee.

(6) Trainees shall not have terminated high school (grade 12) except by graduation within the three months prior to commencement of training.

(7) Trainees shall be expected to meet company policies on attendance, performance evaluation, and other personnel standards.

(8) Trainees who have participated in a previous Industrial Development Training Program are ineligible to participate again with the same company.

(9) Trainee job classifications shall remain fixed during the period of enrollment unless otherwise amended with Board approval.

(10) The company has the exclusive decision in the selection of the trainees.

(11) Trainees must be full time; year around employees to participate in the training program and must be guaranteed full-time employment with the contracted company upon successful completion of training.

(12) Trainees' start dates must not precede the actual contract date. Trainees hired before the contract date do not qualify for reimbursed wages unless the trainees were hired less than two months prior to the Board meeting for which the company is seeking funding, and will not exceed 25% of the total amount being requested. In this case, adjustments will be made to the training hours for trainees whose hire dates are found to be earlier than the contract date.

(13) Employees hired through a temporary agency are considered new hires, however, hours worked under temporary status will be deducted from the total hours eligible, as outlined by the O*NET.

B. Training Project Qualifications and Requirements:

(1) Training shall not exceed one thousand forty (1,040) hours or six months of training per trainee for the total duration of training. Should the company train beyond this amount, it is the company's responsibility to compensate the trainee.

(2) Trainee wages will be reimbursed upon completion of the training.

(3) The Board uses the O*NET (Occupational Information Network) as a guide in the establishment of training hours for a job classification. The applicant should comply with its use.

(4) The Board shall award training hours based on the range suggested by the O*NET unless the application clearly substantiates that additional hours are required. The Board shall ensure that the occupational titles match those of the requested position and that the training hours do not exceed the O*NET guideline. In determining the appropriate number of training hours, the Board shall examine the training plan, the training objectives, and the hourly wage associated with the position. The Board shall review the company's educational and experience requirements of the applicants to determine degree of match with the company's job descriptions.

Duration of reimbursable training time:

Job Zone	Definitions	SVP Range/Conversion	Training Hours	Days	Weeks
1	Little or no preparation needed	Below 4.0	320	20	4

2	Some preparation needed	4.0 to < 6.0	640	40	8
3	Medium preparation needed	6.0 to < 7.0	960	80	16
4	Considerable preparation needed	7.0 to < 8.0	1040	120	24
5	Extensive preparation needed	8.0 and above	1040	130	26

*O*NET 98 Viewer* – The O*NET system is available at the Department of Labor (DOL) website: www.dol.state.nm.us Go to Links, then to America's Workforce Network and follow the instructions that will assist you in this process.

(5) Persons employed to provide the instructional services shall be exempt from the minimum requirements established in the state plan for other state vocational education programs.

(6) Training must be full time based on the company's scheduled workweek. **(not less than 36 working hours per week)**

(7) Contracts shall not be awarded for training programs involved in the production of Native American crafts or imitation Native American crafts unless a majority of trainees or company employees are of Native American descent. A clear distinction of products carrying names and sources suggesting products are of Native American origin must be made. Total compliance with the Federal Trade Commission and the Indian Arts and Crafts Board of the Department of Interior rules and regulations must be made in determining authentic Native American products using labels, trademarks and other measures.

C. Company Qualifications and Requirements:

(1) The contractual agreement will be prepared and mailed out to the company within 15 working days after the Board approval date.

(2) The company entering into a contractual agreement with Economic Development Department shall return the contractual agreement to the Department within 15 business days from the issue date.

(3) The contractor shall complete the hiring of trainees within six (6) months of the contract start date. After six (6) months, funds not utilized and related to the positions not hired will revert back to the program.

(4) The company shall provide the Department with a schedule of trainees who meet the six (6) month contractual requirement monthly.

(5) Each project is subject to compliance reviews throughout the term of the contract. The compliance review will consist of program and fiscal surveys.

(6) The company shall make arrangements to have a Final Audit at the end of the contract. The audit shall be performed by an independent accounting firm registered with the New Mexico Regulation and Licensing Department, Board of Accountancy. The cost is added to the contract at a rate determined by the Industrial Development Training Board.

(7) Yearly follow-ups are conducted to show effectiveness of the program.

(8) Project Proposals and Contract Amendments must be submitted to the Economic Development Department, Economic Development Division, no later than one month before the Industrial Training Board meetings, which are held on the second Friday of each month. The alternate date for Board meetings is the third Friday of the month.

(9) Company job openings must be registered with the New Mexico Department of Labor (NMDOL), Workforce Development Centers. The company is encouraged to use the NMDOL Workforce Development Centers in hiring eligible applicants referred to the program. The company is also encouraged to advertise through the placement office at the local post-secondary educational institution. A list of all post-secondary, public and proprietary institutions is available from the Commission on Higher Education.

(10) In the spirit of the welfare-to-work state initiative, the company is strongly encouraged to explore and participate in other state/federally funded job training programs as administered by the Department of Labor, Health & Human Services, et. al. However dual participation in two separate programs by the same trainee is prohibited.

(11) The company shall have the exclusive decision in the selection of trainees.

(12) The company is required to inform trainees that they are being partially funded by the IDTP.

(13) A company whose employees are compensated based on piecework shall not be reimbursed for training costs.

(14) Companies that fail to comply with all established operating requirements and closeout procedures are not eligible to apply for future participation.

D. Duration of Contract: The term of the contract will be based on a one-year time period, which will allow the contractor to complete its obligation to conduct the agreed upon training. However, the contractor shall complete the hiring of trainees within six (6) months of the contract start date. After six (6) months, funds not

utilized and related to the positions not hired will revert back to the program

E. Reapplication: While funding considerations are first given to new applicants, companies who have participated in the past may reapply for assistance through the Industrial Development Training Program upon submission of a new proposal. Information must be included in the proposal to document trainee retention, promotions, audit results, and company growth relating to the persons who participated in the program. Funding consideration will be based on but not be limited to: salary range, county unemployment, types of jobs, impact on local economy, number of jobs, number of previous awards, past performance, and benefits provided. In order to be refunded the company must demonstrate an expansion beyond its peak employment as established by the first application. Companies that fail to comply with all established operating requirements and closeout procedures from the initial contract are not eligible to apply for future participation. Reimbursement of training costs shall be made to the participating company or public educational institution in accordance with the terms of the training contract. The rate established in the contract shall remain the same for the length of the agreement.
[5.5.50.10 NMAC - Rp 5 NMAC 5.50.10, 04-30-2002]

5.5.50.11 REIMBURSEMENTS, EXTENSIONS AND AMENDMENTS: Reimbursement of training costs shall be made to the participating company or public educational institution in accordance with the terms of the training contract. Reimbursements will be based upon the number of trainees who have completed the training program. Training/work shall be full-time. The rate established in the contract shall remain the same for the length of the agreement. The participating company or the educational institution will submit time records and reimbursement invoices on established Economic Development Division forms to the New Mexico Economic Development Department, which is the payment agent. Claim for reimbursement can be submitted during the contract period, when trainees complete the number of contracted hours. The Claim for Reimbursement package must include one original signature and must be notarized. Failure to fully and accurately complete the Claim for Reimbursement Package will require sending the claim back to the company for correction. This process may cause delay in payment. The mailing address for all reimbursement forms (company and educational institutions) is the following:

Industrial Development Training Project Administrator
New Mexico Economic Development Department
P. O. Box 20003
Santa Fe, NM 87504-5003

Physical address to be used for Federal Express or special handling packages:

Industrial Development Training Project Administrator
New Mexico Economic Development Department
Joseph M. Montoya Bldg.
1100 St. Francis Drive
Santa Fe, NM 87505-4147

Reimbursement from the state will be based on the negotiated contractual agreement that includes a wage range outlined in the contract to meet any wage adjustments during the training period.

A. Public Educational Institution Classroom Training Reimbursement: Classroom training may occur as part of the trainee's on-the-job training program. Payment for classroom training services shall be restricted to instructional costs and may not exceed- five (5%) percent overhead charges. Instructional costs for classroom training conducted by an educational institution may include instructional salaries, fringe benefits, supplies and materials, textbooks, expendable tools, and other costs associated in conducting the training program. The rate of reimbursement to the institution is 100% of all training costs. The Claim for Reimbursement package must include one an original signature and must be notarized. Copies of instructor's time log, travel log, invoices for supplies, textbooks, etc. must be attached in order to support the claim for reimbursement. No training equipment may be purchased or rented using (IDTP) funds. Cost allowed for classroom training:

- (1) Supplies
- (2) Textbooks
- (3) Other costs that are clearly defined by the training institution in the proposal, and must be

included in the Training Budget that is part of the contractual agreement.

B. Company In-Plant Training Reimbursement: Reimbursement from the state will be based on the negotiated contractual agreement that includes a wage range outlined in the contract to meet any wage

adjustments during the training period.

(1) Training costs will be reimbursed to the company based on the Project Summary written in the contract. Urban rates must not exceed fifty percent (50%) of the trainees' hourly wages multiplied by the hours trained. Urban is defined as the city limits of Albuquerque, Santa Fe, Los Alamos, Las Cruces and Rio Rancho.

(2) Businesses outside the urban areas as listed above, will be reimbursed at sixty percent (60%).

(3) If a company is located in an economically distressed (Cibola, Mora, Guadalupe, Rio Arriba, Luna, San Miguel, McKinley and Taos) area of New Mexico the said company is eligible for sixty-five percent (65%) reimbursement. The board defines economic distressed based on per capita income and unemployment and/or per g Board's discretion when a severe or specific negative economic impact has occurred in an area of New Mexico.

(4) If a company is located or expands to a currently designated Enterprise Zone, the said business can be reimbursed at a rate deemed eligible for an economically distressed area. A company cannot relocate to an Enterprise Zone or rural area for the sole purpose of obtaining the increased rates.

(5) Trainee hours shall not exceed one thousand and forty (1,040) hours per trainee based on the company's scheduled workweek and not to exceed forty (40) hours per week. The company shall compensate training hours that exceed the contracted amount. In some special instances, a company operates a "compressed workweek", where an employee works 40 hours in three or four days.

(6) A company whose employees are compensated based on piece work shall not be reimbursed for training costs.

(7) No payments shall be made under any accepted training contract for rental of facilities unless facilities are not available on-site or at an educational institution.

C. Travel and Per Diem Reimbursement for Trainees and Trainers:

(1) Total travel cost is not to exceed five (5%) of the total project cost.

(2) Trainee travel and per diem will be consistent with the rates as designated by location (urban, rural, or economically distressed) and must be pursuant to the DFA rule 95-1 of the Department of Finance and Administration's regulations governing the Per Diem and Mileage Act. The cost is associated when training occurs out of state and at the company's headquartered plant.

(3) Trainer travel and per diem may be allowed if approved in the details of the contract. When travel is required, per diem is limited to the rates as designated by location (urban, rural, or economically distressed) and must be pursuant to Rule 95-1 of the Department of Finance and Administration's regulations governing the Per Diem and Mileage Act. The cost is associated when trainers are brought in from out of state.

D. Amendments and Extensions: Due to funding limitations, the Industrial Development Training Board has ceased approving program **extensions** until further notice. However, under limited circumstances, the board may review and may make exceptions to this rule. Amendments to the contract are allowed and companies may submit an amendment request to the Industrial Training Board. When requesting an amendment to the original contract, the company must provide supporting documentation to justify the amendment. All amendments shall include: (1) a current financial statement, (2) correspondence requesting the change, and (3) a completed amendment form. If a company requests an amendment increasing the original contract by more than 20%, a new application must be submitted. Amendment requests which are administrative in nature and do not impact the original budget amount by more than \$5,000 (above or below), may be executed by staff (ie. Job classification changes, company name change, wage ranges, etc.). The program manager and division director or his designee will approve all staff executed contract changes. Otherwise, the Industrial Training Board must approve all contract amendments. Staff may execute amendments without board approval if only to allow completion of a contract within a six-month period. All project amendment requests must be submitted in writing one month prior to the board meeting. The board meetings are held on the second Friday of every month. Amendments must commence within thirty (30) days from the approval date.

[5.5.50.11 NMAC - Rp 5 NMAC 5.50.11, 04-30-2002]

5.5.50.12 OTHER REPORTING REQUIREMENTS:

A. Trainee Data Form: The completed Trainee Data Form must be sent to the following address:
Industrial Development Training Project Administrator
New Mexico Economic Development Department
P. O. Box 20003
Santa Fe, New Mexico 87504-5003

Physical address to be used for Federal Express or special handling packages:

Industrial Development Training Project Administrator
New Mexico Economic Development Department
Joseph M. Montoya Bldg.
1100 St. Francis Drive
Santa Fe, NM 87505-4147

B. Individual Training Records: The company is responsible for completing an individual training form for each employee/trainee. These records do not have to be submitted to Economic Development; however, they are subject to review during compliance visits and program surveys.
[5.5.50.12 NMAC - Rp 5 NMAC 5.50.12, 04-30-2002]

5.5.50.13 GLOSSARY/REFERENCE:

A. Expanding Company: An existing business requiring additional employees or workforce due to a market or product expansion. A company who buys out an existing company shall not be considered a new company.

B. New Company: A company not currently in operation in the state showing evidence of intent to establish operations in New Mexico.

C. Fair Labor Standards Act: A Federal law establishing federal minimum wage and requiring employers to pay time and one-half of employee's regular rate for hours in excess of 40 hours per work week. All companies are encouraged to investigate and determine whether they fall under the Fair Labor Standards Act or State law.

D. Peak Employment: Peak employment will be based on the employment base at the time of the initial contract, plus the number of employees funded through the program during previous participation. The Board will utilize the State of New Mexico unemployment insurance (UI) report for the latest quarter to determine peak employment at initial application and at the time of reapplication to ensure an expansion is indeed occurring.

E. Southwestern Arts and Crafts: Refer to Department of Interior Indian Arts and Crafts Board; Indian Arts and Crafts Association; Council of Better Business Bureau; Federal Trade Commission.

F. Department of Labor Workforce Development Centers: More information pertaining to the New Mexico Department of Labor can be accessed via the Internet at: <http://www.dol.state.nm.us/>
[5.5.50.13 NMAC - Rp 5 NMAC 5.50.15, 04-30-2002]

HISTORY OF 5.5.50 NMAC:

History of Repealed Material:

5 NMAC 5.50, Industrial Development Training Program - Repealed, 04-30-2002.