

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and  
Representatives HOLTZCLAW, Anderson, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Department of Commerce:

IDAPA 28.00.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket  
No. 28-0000-1900).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 07/19/2019. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/16/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee  
**FROM:** Principal Legislative Drafting Attorney - Ryan Bush  
**DATE:** July 1, 2019  
**SUBJECT:** Department of Commerce

IDAPA 28.00.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket No. 28-0000-1900)

The Department of Commerce has submitted temporary and proposed rules that reauthorize and re-publish, in full, the following previously approved chapters under IDAPA 28:

28.02.03, Rules of the Idaho Regional Travel and Convention Grant Program  
28.02.04, Idaho Gem Grant Program  
28.02.05, Rural Community Block Grant Program (RCBG)  
28.02.07, Rules Governing the Administration of the IGEM Grant Program  
28.03.01, Rules of the Idaho Opportunity Fund  
28.04.01, Rules Governing the Idaho Reimbursement Incentive Act

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. **No substantive changes from the existing rules have been noted.**

cc: Department of Commerce  
Ewa Szewczyk

#### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

## IDAPA 28 – DEPARTMENT OF COMMERCE

DOCKET NO. 28-0000-1900

### NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED RULEMAKING

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-4702(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 28, rules of the Department of Commerce:

#### **IDAPA 28**

- 28.02.03, *Rules of the Idaho Regional Travel and Convention Grant Program*
- 28.02.04, *Idaho Gem Grant Program*
- 28.02.05, *Rural Community Block Grant Program (RCBG)*
- 28.02.07, *Rules Governing the Administration of the IGEM Grant Program*
- 28.03.01, *Rules of the Idaho Opportunity Fund*
- 28.04.01, *Rules Governing the Idaho Reimbursement Incentive Act*

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. As the lead economic development agency for the State of Idaho, the mission of the Idaho Department of Commerce is to foster a business-friendly environment to aid in job creation, support existing companies, support tourism, and strengthen Idaho communities. The temporary adoption of the rule will ensure the continued support for Idaho businesses and tourism from the Idaho Department of Commerce.

**FEE SUMMARY:** This rulemaking does not impose a fee or charge.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Ewa Szewczyk at (208) 334-2470.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

Ewa Szewczyk  
Grants & Contracts Manager  
Idaho Commerce  
700 W State Street  
Boise, Idaho 83702  
Phone: (208) 334-2470  
Fax: (208) 334-2631

**IDAPA 28  
TITLE 02  
CHAPTER 03**

**28.02.03 – RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**000. LEGAL AUTHORITY.**

These rules have been adopted pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code, which imposes a two percent (2%) tax on the sale of hotel/motel and private campground accommodations and created the Idaho Travel and Convention Industry Committee, herein referred to as the Idaho Travel Council (ITC). The revenues generated by this tax (less ten percent (10%) administrative expense) are to be invested one-half (1/2) by the state and one-half (1/2) by the local regions within Idaho in well-planned promotional programs. The ITC, through the Idaho Department of Commerce (Department), has been given the responsibility of administering this program which includes the local regional grant program. (3-29-10)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are cited as IDAPA 28.02.03, “Rules of the Idaho Regional Travel and Convention Grant Program” (ITC Grant Program). (3-29-10)

**02. Scope.** The primary objective is the creation and implementation of plans designed to stimulate and expand the travel and convention industry within the state’s seven (7) planning regions. (3-29-10)

**002. WRITTEN INTERPRETATIONS.**

In accordance with Sections 67-5201(19)(b)(iv), 67-4715, 67-4717 and 67-4718, Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost at the Idaho Department of Commerce, 700 West State Street, Boise, Idaho. (3-29-10)

**003. ADMINISTRATIVE APPEALS.**

This chapter does not provide for appeal of the administrative requirements for agencies. (3-29-10)

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into these rules. (3-29-10)

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The central office for the Idaho Travel Council Grant Program is located at the Idaho Department of Commerce. The office is open daily from 8 a.m. and 5 p.m., except Saturday, Sunday, and legal holidays. Appropriate ITC grant program documents may be filed at, or mailed to: Idaho Travel Council Grant Program, Idaho Department of Commerce, 700 West State Street, P. O. Box 83720, Boise, Idaho 83720-0093. (3-29-10)

**006. PUBLIC RECORDS ACT COMPLIANCE.**

Information regarding ITC applications or awarded grants are considered to be public information and will be released upon request. These documents are available for public inspection and copying at cost. (3-29-10)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

As used in this chapter: (3-29-10)

**01. Council.** The Idaho Travel Council (ITC) as set forth in Section 67-4712, Idaho Code. (3-29-10)

**02. Division of Tourism.** The staff of the Division of Tourism Development unit of the Idaho Department of Commerce. (3-29-10)

**03. Department.** The Idaho Department of Commerce as set forth in Section 67-4701, Idaho Code. (3-29-10)

**04. Grant Program Guidelines.** Interpretation of these rules by the Idaho Travel Council. (3-29-10)

**011. PROGRAM INTENT.**

The intent of the ITC's Regional Grant Program is to distribute grant funds to non-profit, incorporated organizations which have in place a viable travel or convention promotion program, or both, in their area of operation. Preference is given to programs with a primary focus of promoting overnight visitation in Idaho. Funds may be used for tourism marketing which has a positive economic impact to the state of Idaho. Such marketing includes, but is not limited to, the promotion of accommodations, recreational areas, events, conferences, food and beverage, tourism services, culture, attractions, and transportation. The Idaho Travel Council and the Department will guide the tourism marketing goals and strategies for the state of Idaho. (4-11-19)

**012. GRANT AWARD SCHEDULE.**

**01. Application Deadlines.** Grants will be awarded annually at the first ITC meeting of the fiscal year, approximately August 1. A schedule of application deadlines will be posted on the Department's website and is available by request from the Division of Tourism. (3-29-10)

**02. Grant Award Status.** Applicants will be notified of their grant award status within seven (7) days of the ITC's grant award date. (3-29-10)

**03. Grant Cycle.** Grant contract period is fourteen (14) months, beginning with the ITC's grant award date and ending on September 30 of the following year. Funded activities should be completed within the fourteen (14) month cycle. (3-29-10)

**013. DISTRIBUTION OF FUNDS.**

The Idaho Regional Travel and Convention Grant is a cost reimbursable grant. (4-11-19)

**01. Documentation of Funds Expended.** The Department will reimburse funds to the grantee upon submission and review of complete documentation of funds expended. (4-11-19)

**02. Documentation of Reimbursable Expenses.** Documentation for reimbursable expenses will be determined by the Department and the ITC as outlined in the guidelines. (3-29-10)

**014. NON-PROFIT STATUS.**

If not already on file with the Department, grant applicants must provide the following documents as proof of non-profit status prior to or with their application. (3-29-10)

**01. Proof of Non-Profit Status.** State of Idaho Certificate of Incorporation and Articles of Incorporation from the Secretary of State or a letter of determination from the Internal Revenue Service. (3-29-10)

**02. Employer Identification Number.** Notice of Employer Identification Number assigned by the Internal Revenue Service. (3-29-10)

**015. POTENTIAL CONFLICT OF INTEREST.**

A grant recipient's affiliation with a profit-making organization could imply a conflict of interest and must be disclosed. Such conflict could render the grant application ineligible. (4-11-19)

**016. CATEGORIES OF APPLICANTS.**

The area of impact of the non-profit applicant will determine the application type as follows: (3-29-10)

**01. Local/Regional Grant Application.** A non-profit organization whose area of impact lies within the boundaries of a single region. (3-29-10)

**a.** Regional applicants serve as an umbrella organization, promoting travel to locations throughout the region. (3-29-10)

**b.** Tourism regions are defined in Section 67-4711, Idaho Code. (3-29-10)

**02. Multi-Regional Application.** A non-profit organization that represents more than one (1) region or has a presence in each region of the state. The association serves as an umbrella organization, promoting travel to locations throughout the state. (3-29-10)

**017. ELIGIBLE PROJECTS.**

Eligible projects under the Regional Travel and Convention Grant Program must be consistent with the legislative declaration of policy in Title 67, Chapter 47, Idaho Code, and the program intent. Programs that are eligible for consideration must fall under the basic definition of travel or convention promotion. (4-11-19)

**018. ADMINISTRATIVE EXPENSES.**

**01. Program Purpose.** It is not the purpose of this grant program to fund the day-to-day, administrative expenses of organizations that have a travel or convention promotion element. Projects that have alternative funding sources (for example, regular Chamber of Commerce budgets) or that have been funded previously with the agency's own funds may be deemed ineligible. (4-11-19)

**02. Administrative Expense.** The following administrative and overhead costs are allowable: (4-11-19)

**a. Wages and Benefits.** Wages and benefits of one (1) designated grant administrator for time directly related to the task of grant administration. Other employee wages and benefits incurred in the execution of the grant program may be used as cash match with documentation. (4-11-19)

**b. Overhead.** Reasonable, apportioned overhead costs of the grantee organization required to execute the grant program must be approved by the Idaho Travel Council. The Department will recommend preferred apportionment methods. (4-11-19)

**c. Grant Writing.** No expenses related to grant writing, or grant application are eligible. (4-11-19)

**019. LOCAL EVENTS.**

It is not the intent of the Council to fund the promotion of local events. However, the Council will consider the unique benefits of events that have the potential of having a measurable impact on consumer travel and spending patterns. Such requests for funding will be judged on their specific merits. (3-29-10)

**020. REPETITIVE FUNDING OF PROJECTS.**

The Council may fund repetitive projects. However, applicants should not conclude that a plan will be funded because it has been funded in the past. When a previously funded plan is resubmitted, the applicant should show the return on investment as it relates to ITC program intent. (3-29-10)

**021. PROGRAM CREDIT.**

All projects funded by the Idaho Regional Travel and Convention Grant Program must credit said program as determined appropriate by the ITC. (3-29-10)

**022. GRANT ADMINISTRATION GUIDELINES.**

**01. Noncompliance with Guidelines.** Noncompliance with administrative guidelines may lead to grant termination or omission from future grant awards, or both. (3-29-10)

**02. Usage of Funds.** Applicant must agree that funds will be used in accordance with ITC grant contract and guidelines, including, but not limited to: (4-11-19)

**a.** Submitting narrative progress reports according to contract schedule; (3-29-10)

**b.** Using appropriate forms with accompanying documentation; (3-29-10)

**c.** Abiding by subcontract procedures in the guidelines; and (3-29-10)

- d. Providing complete audit documentation when applicable. (3-29-10)

**023. ADHERENCE TO STATE LAWS AND REGULATIONS.**

**01. Applicable Laws and Regulations.** The applicant must agree to use the grant funds in accordance with all applicable state laws and regulations relative to purchasing, fiscal, and audit requirements. (3-29-10)

- 02. Sales Tax.** Receipt of an ITC grant does not exempt an organization from paying sales tax. (3-29-10)

**024. -- 199. (RESERVED)**

**200. APPLICANT ORGANIZATIONAL REQUIREMENTS.**

Applicants for this grant program must show in their application that they have: (3-29-10)

**01. Plan.** A goal-oriented plan for travel or convention promotion, or both, with measurements appropriate to the scope of work. (3-29-10)

- 02. Resources.** Adequate resources to: (3-29-10)

a. Carry out the plan as outlined in the grant application; and (3-29-10)

b. Operate and maintain a financial management system for the plan. (3-29-10)

- 03. Ability to Manage.** The ability to manage the grant. (3-29-10)

**201. MATCHING FUNDS.**

Match must be documented in the application. (3-29-10)

**01. Match Required.** The Idaho Regional Travel and Convention Grant Program requires match from all organizations applying for funding as a way to increase the regional or local commitment to the plan, and to assist in generating more dollars for tourism promotion. (3-29-10)

**02. Match Percentage.** All plans must provide cash match of twelve and one-half percent (12.5%) of the amount awarded. All match must be outlined in the scope of work within the grant application. Audits are exempt from match requirements. (3-29-10)

**03. Match Definition.** Match is defined in the guidelines, but is considered documented cash contributions, wages and benefits or income used to fund a project. (3-29-10)

**04. Expenditures.** Expenditures claimed for projects funded previously by the grantee, such as brochures and publications, will not be allowed as match. (3-29-10)

**05. Marketing.** Marketing dollars spent by a for-profit enterprise within their marketing program may not be claimed as cash match by a grantee, not to exclude approved co-op programs. (3-29-10)

**202. -- 220. (RESERVED)**

**221. GRANT APPLICATION PROCESS.**

**01. Meeting with Regional ITC Representative.** A meeting with the regional ITC representative to discuss grant application is strongly encouraged. (3-29-10)

**02. Idaho Travel Council Presentation.** Applicants for grants of fifty thousand dollars (\$50,000) or greater are strongly encouraged to present their travel and convention plan at the final ITC meeting of the fiscal year. Applicants for grants of less than fifty thousand dollars (\$50,000) may present their grant application at the same



meeting. (3-29-10)

**03. Grant Application.** Grant applications must be submitted on-line through the Department's tourism website at [www.tourism.idaho.gov](http://www.tourism.idaho.gov). Submittal deadline will be determined by the Division of Tourism and posted on the Division website. (3-29-10)

**04. Technical Review.** The following criteria are considered in the review of the application:(3-29-10)

- a.** Application Completeness - Scope of work and budget filled out correctly. (3-29-10)
- b.** Cash Match - Potential sources identified. (3-29-10)
- c.** Commitment - Evidence the plan has local/regional support. (3-29-10)
- d.** Fiscal Competency - Presence of an adequate financial management system. (3-29-10)
- e.** Need - Addresses identified needs of the travel economy in the impacted region. (3-29-10)
- f.** Regional Impact - Will increase local/regional awareness, encourage visitors to stay longer, or promote intra-regional travel. (3-29-10)
- g.** Continuing Benefits - Plan has benefits beyond the grant cycle. (3-29-10)
- h.** Plan Design - Achieving goals and objectives within a reasonable time frame. (3-29-10)
- i.** Innovation. (3-29-10)
- j.** Evaluation - Plan demonstrates a sound methodology for measuring achievement of the stated project objectives. (3-29-10)
- k.** Cost Analysis - Applicant shows evidence that other resources are not available to support the plan fully, and requested funds are sufficient to accomplish plan objectives. (3-29-10)

**222. GRANT AWARD.**

The ITC is responsible for the selection of applications to be awarded ITC Grants. Once the ITC has selected applications to be funded, the Department will notify all applicants, of their funding status in writing. (4-11-19)

**01. Term of Contract.** All contracts will be in effect for a period of no more than fourteen (14) months unless otherwise stipulated in the contract. (3-29-10)

**02. Special Conditions.** If applicable, special conditions of funding will be outlined. (3-29-10)

**03. Effective Date.** The grant will take effect upon the date of award. Grant monies cannot be expended until that date. (3-29-10)

**04. Reimbursement.** No expenditures can be reimbursed until the contract is signed by the Director of the Department or his designee. (3-29-10)

**223. AUDIT REQUIREMENT.**

Grantees who receive one hundred thousand dollars (\$100,000) or more in grant funds will have an audit. The audit will be performed by a Certified Public Accountant and submitted to the Department within sixty (60) days following the close of the grant cycle. The Council may also require an audit for grants less than one hundred thousand dollars (\$100,000). (4-11-19)

**224. EXTENSIONS AND AMENDMENTS.**

Extensions and amendments to ITC approved grants are discouraged. However, if the grantee can offer a compelling reason why more time is needed to complete the approved plan, or if a suitable opportunity requiring a change to the

scope of work becomes available, an extension of the grant year or amendment to the approved plan or budget may be requested. (3-29-10)

**01. Extensions.** An extension of up to three (3) months may be obtained from the grant manager with the Division of Tourism. However, if the grantee requires additional time to complete approved projects, beyond the three (3) months, the request will be reviewed by the ITC and must receive a majority vote of the members in order for the extension to be allowed. (3-29-10)

**02. Amendments.** If the scope of any element changes or a budget shift in excess of limits set by the Council in the guidelines is requested, it will be reviewed by the ITC and must receive a majority vote of the members in order for the amendment to be allowed. (3-29-10)

**225. GRANT TERMINATION.**

**01. Plan, Project or Organization Loses Viability.** If at any time a travel and convention promotion plan or project loses its viability, or the organization awarded the grant ceases to actively function, the grant may be terminated. This determination will be made by the ITC, the Division of Tourism staff, and may include the grantee. If such a decision is made, the Department will terminate the plan or project and the funds will be reverted to the regional pool for the next cycle grant awards. (3-29-10)

**02. Conflict of Interest.** If at any time the Council becomes aware of an apparent or potential conflict of interest between a grantee and a private entity which may influence grant funds, the Council may request a meeting with the grantee's representatives. The Council may, at that meeting, terminate the grant if an inappropriate conflict of interest is found. (3-29-10)

**03. Inappropriate Use of Funds.** If at any time the Council becomes aware of a grantee's inappropriate or illegal use of grant funds, or inappropriate request for reimbursement, the Council may request a meeting with the grantee's representatives. The Council may, at that meeting, terminate the grant if impropriety is found. (3-29-10)

**226. -- 999. (RESERVED)**

**IDAPA 28  
TITLE 02  
CHAPTER 04**

**28.02.04 – IDAHO GEM GRANT PROGRAM**

**000. LEGAL AUTHORITY.**

These rules are promulgated under the legal authority of Section 67-4702, Idaho Code. (7-1-05)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled as IDAPA 28.02.04, “Idaho Gem Grant Program.” (7-1-05)

**02. Scope.** The Idaho Gem Grant (IGG) Program was created as part of Governor Kempthorne’s Rural Development Initiative. Successive sessions of the Idaho State Legislature made funds available to the Idaho Department of Commerce to fund the Governor’s IGG Program. These rules implement the Department’s procedures for project selection, award and disbursement of grant moneys for the Governor’s IGG Program. (7-1-05)

**002. WRITTEN INTERPRETATIONS.**

The Department has no written interpretations of these rules. (7-1-05)

**003. ADMINISTRATIVE APPEALS.**

The award of grants under the IGG Program is a discretionary action to be performed by the Department. There is no provision for administrative appeal under these rules. (7-1-05)

**004. INCORPORATION BY REFERENCE.**

The IGG Program Handbook is incorporated herein by reference. Copies of this document are available for public inspection and copying at the address indicated below or through the internet at [www.commerce.idaho.gov](http://www.commerce.idaho.gov). (7-1-05)

**005. OFFICE – OFFICE HOURS, MAILING ADDRESS, AND STREET ADDRESS.**

The headquarters of the Idaho Department of Commerce is in Boise, Idaho. Office hours are from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The Department’s mailing address for information regarding the IGG Program is: Idaho Department of Commerce, P.O. Box 83720, Boise ID 83720-0093. The street address is 700 West State Street, Boise, Idaho. The telephone number is (208) 334-2470 and the FAX number is (208) 334-2631. (7-1-05)

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 74, Chapter 1, Idaho Code). (7-1-05)

**007. -- 011. (RESERVED)**

**012. PRIMARY OBJECTIVES.**

The primary objectives of the IGG Program are to fund community development projects of rural communities for the purpose of: (7-1-05)

**01. Improving the Local Economy.** (2-7-94)

**02. Retaining or Creating Jobs.** (2-7-94)

**03. Promoting the Community for Economic Development and Tourism.** (2-7-94)

**04. Assisting Business Expansion and Diversification.** (2-7-94)

**013. ELIGIBLE APPLICANTS.**

Idaho rural communities under ten thousand (10,000) persons and other Idaho rural communities at the discretion of the Director of the Department of Commerce are eligible to apply for IGGs up to a maximum of fifty thousand dollars (\$50,000). IGGs to city and county governments may be administered by their designees as established by formally adopted resolutions. (7-1-05)

**014. ELIGIBLE ACTIVITIES.**

For a project to be eligible for IGG funding the project must meet one (1) or more of the IGG program's primary objectives listed in Section 012 of these rules. (7-1-05)

**015. ELIGIBLE COSTS.**

- 01. Eligible Costs.** Eligible costs for the use of IGG funds are limited to: (7-1-05)
  - a.** Materials. (2-7-94)
  - b.** Construction contracts. (2-7-94)
  - c.** Architect and engineering services and legal and professional services required for project implementation. (3-15-02)
  - d.** Equipment. (2-7-94)
  - e.** Equipment installation. (2-7-94)
  - f.** Advertising. (2-7-94)
  - g.** Printing. (2-7-94)
  - h.** Construction of infrastructure for economic expansion. (3-15-02)
  - i.** Rehabilitation and development of public property to support business development. (7-1-05)
  - j.** Acquisition of real estate for business development. (3-15-02)
  - k.** Matching funds for other state, federal and foundation economic development grants. (7-1-05)

**016. INELIGIBLE ACTIVITIES/COSTS.**

IGG funds may not be used for: (7-1-05)

- 01. Payroll Costs.** Payroll costs for city, county, development corporation or other community agencies. (2-7-94)
- 02. Real Property Acquisition.** Construction, rehabilitation, or operation of schools, general government facilities, jails or state facilities. (3-15-02)
- 03. Administrative Costs.** Expenses related to administering IGGs will not be reimbursable to the grantee from IGG funds. (7-1-05)
- 04. Political Activities.** IGG funds may not be used for political purposes or to engage in lobbying or other partisan political activities. (7-1-05)
- 05. Religious Activities.** IGG funds may not be used for the construction, rehabilitation or operation of active churches or religious structures used for religious purposes. (7-1-05)

**017. SELECTION.**

The IGG process is competitive on a quarterly cycle and is dependant upon grant fund availability. The following process will be used to select which eligible proposals will be funded: (7-1-05)

- 01. Review of Proposals.** Department staff review proposals for completeness and compliance with these rules and make recommendations for funding to the Department's Director. (7-1-05)

**02. Grant Awards.** The Department's Director, in his sole discretion, makes all IGG awards. The Director may make grant awards at any time the Director determines it necessary to take advantage of special opportunities that further the primary objectives of the IGG Program. (7-1-05)

**018. -- 019. (RESERVED)**

**020. APPLICATION PROCESS.**

**01. Applications.** Applications for IGGs may be submitted by eligible communities at any time. (7-1-05)

**02. Application For Funding.** Application for funding is made by submitting one (1) copy of the grant proposal in the required format to the Department. (7-1-05)

**021. -- 029. (RESERVED)**

**030. PROPOSAL FORMAT.**

IGG applications must be submitted on eight and one-half by eleven inches (8 1/2" x 11") white paper. The text must be typed, with numbered pages. The types of headings, required content and numbering systems must conform to the latest revision of the IGG Handbook. (7-1-05)

**031. MATCHING FUNDS.**

All IGG grantees must provide a minimum of twenty percent (20%) matching funds of either cash or in-kind donations for the total amount of IGG funds received. Matching funds can be comprised of any combination of cash and in-kind donations and must meet the following criteria: (7-1-05)

**01. Source.** Matching funds can be from private, local, state, federal, or foundation sources. (7-1-05)

**02. Relation to Project.** All matching funds must be related to the planning, implementation or operation of the project being funded. (7-1-05)

**03. Documentation of Matching Funds.** Matching funds must be documented by receipt, invoice, time cards, or by other written documentation signed by the donor. (7-1-05)

**04. IGG Funds.** IGG funds may be used as matching funds for other state, federal and foundation grant programs. (7-1-05)

**05. Administrative Expenses Used as Matching Funds.** Up to two thousand five hundred dollars (\$2,500) of the grantee's administrative expenses related to the project being funded may be used as matching funds for the grant. (7-1-05)

**032. GRANT PAYMENT.**

Payment of IGGs will be made in the following manner: (7-1-05)

**01. Payment of Funds.** Grantees receive payment of IGG funds on a cost reimbursement basis. Grant payment procedures will be established in the IGG Contract. To receive reimbursement, the grantee must submit receipts and matching funds documentation to the Department for the reimbursement amount being requested. The Department will reimburse allowable costs up to the maximum grant amount for which both receipts and matching funds documentation have been provided. The grantee is responsible for any discrepancies in documentation. (7-1-05)

**02. Special Circumstances.** In special circumstances due to the small size of the community or the nature of the project, grantees may request receipt of IGG funds on other than a cost reimbursement basis. The Department will review the requests and determine in its sole discretion whether different payment procedures are warranted to avoid hardship to the community. (7-1-05)

**033. REPORTING.**

All IGG recipients are required to submit the following two (2) reports: (7-1-05)

**01. Status Report.** A status report is required with each request for payment. It should contain the following information: (3-15-02)

**a.** A short narrative outlining the project status, successes, and problems, and (7-1-05)

**b.** Press clippings, pictures and other information about the project as available. (2-7-94)

**02. Final Report.** All grantees must submit a final report containing the following information: (2-7-94)

**a.** A narrative describing the success of the project. (2-7-94)

**b.** A description of the impact the project has had and will have on the community including long term benefits anticipated. (2-7-94)

**c.** A description of any special contributions or work provided on the project. (2-7-94)

**d.** Any other information, pictures or press clippings about the project that have not already been submitted. (7-1-05)

**034. PROJECT DURATION.**

Grantees are encouraged to limit the duration of their projects to twelve (12) months or less. (2-7-94)

**035. CONFLICT OF INTEREST.**

No official, officer, employee, family member or agent of the Department or of a grantee may profit financially, directly or indirectly, from IGG funds under their direction or control. (7-1-05)

**036. CREDIT STATEMENT.**

All activities funded by the IGG Program must credit the program. The following credit statement must be placed on all IGG funded brochures, slide shows, videos, films, displays, advertising, press releases and other printed materials: "This publication made possible by an Idaho Gem Grant, Idaho Department of Commerce" or "paid, Idaho Gem Grant, Idaho Department of Commerce." (7-1-05)

**01. Failure to Comply.** Failure to credit the IGG Program as required above may, at the Department's sole discretion, disqualify the grantee from receiving IGG funding for that portion of the project for which credit was not given. (7-1-05)

**02. Other Credit.** Credit may also be given to other sources of assistance. (2-7-94)

**037. -- 039. (RESERVED)**

**040. BID PROCESS FOR THE PURCHASE OF GOODS OR SERVICES OVER \$25,000.**

IGG grantees must contact a minimum of three (3) vendors for quotes or bids for the purchase of goods or services over twenty-five thousand dollars (\$25,000). Prior to reimbursement for such costs, the following information must be submitted to the Department: (7-1-05)

**01. Item or Service Purchased.** A detailed description of the item or service purchased or to be purchased. (7-1-05)

**02. Bid Verification.** Written documentation of three (3) or more businesses or vendors contacted by IGG grantees for bids or quotes. The documentation must list the businesses or vendors contacted and indicate their response. The documentation must also include a list of all businesses or vendors contacted whether or not a response was received. (7-1-05)

**03. Reasons for Selection.** Grantees justification for the business or vendor selected. (7-1-05)

**041. PROJECT AMENDMENT.**

Projects may be amended at any time prior to project completion by mutual written agreement of the grantee and the Department. Grantees must submit a written request to the Department, and receive written approval, prior to modifying the budget or scope of work of a project. (2-7-94)

**042. LOSS OF PROJECT VIABILITY.**

It is the responsibility of the IGG grantee to give immediate written notification to the Department as soon as the grantee becomes aware that its project has lost viability. If a project loses its viability after selection for funding and prior to any expenditure of IGG funds, the project will be terminated and the Department's IGG award will be voided. If a project loses its viability after the grantee expends IGG funds, the grantee must immediately stop all expenditures of IGG funds and return all unspent IGG funds to the Department. The Department may, in its sole discretion, agree to modify, restructure or amend the project. (7-1-05)

**043. TERMINATION OF FUNDING.**

Funding for projects may be terminated by the Department at any time for the misuse of IGG funds. Upon receipt of a written notice of termination from the Department, the grantee must immediately stop all expenditures of IGG funds and return all unspent IGG funds to the Department. The Department will make a final payment to the grantee based on the work completed, allowable costs incurred and the documentation provided by the grantee as required by these rules. (7-1-05)

**044. -- 999. (RESERVED)**

**IDAPA 28  
TITLE 02  
CHAPTER 05**

**28.02.05 – RURAL COMMUNITY BLOCK GRANT PROGRAM (RCBG)**

**000. LEGAL AUTHORITY.**

The Department of Commerce, through these rules, is implementing the state's Rural Community Block Grant Program as authorized by Section 67-4703, Idaho Code. (3-15-02)

**001. TITLE AND SCOPE.**

**01. Title.** These Rules are titled IDAPA 28.02.05, "Rural Community Block Grant Program (RCBG)." (3-15-02)

**02. Scope.** These rules establish the process and procedures for application for and the awarding of Rural Community Block Grants. (3-15-02)

**002. WRITTEN INTERPRETATIONS.**

The Idaho Department of Commerce may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements can be inspected and copied at the Idaho Department of Commerce, 700 W. State Street, Boise, Idaho 83702. (3-15-02)

**003. ADMINISTRATIVE APPEALS.**

Any person who is aggrieved by a decision regarding the imposition of sanctions is entitled to an administrative appeal pursuant to Title 67, Chapter 52, Idaho Code, Idaho Administrative Procedures Act. (3-15-02)

**004. INCORPORATION BY REFERENCE.**

All state and federal requirements of the RCBG Program are included in the RCBG Application Handbook. The Grant Agreement between the Department and RCBG recipients must contain the appropriate certifications pertaining to these state and federal regulations. These certifications are the basis of project compliance in the administration and management of the RCBG project. (3-15-02)

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The mailing address of the Idaho Department of Commerce is Division of Rural and Community Development, 700 West State Street, P.O. Box 83720, Boise, Idaho 83720-0093; the telephone number is (208) 334-2470; and the facsimile machine number is (208) 334-2631. (3-15-02)

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All rules adopted by this chapter are public records. (3-15-02)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

All definitions pertaining to the RCBG Program are incorporated in the RCBG Application Handbook. (3-15-02)

**011. ELIGIBLE APPLICANTS.**

Applicants for the Idaho Rural Community Block Grants are as follows: (3-15-02)

**01. City Applicants.** Rural cities are those generally less than twenty-five thousand (25,000) in population. Cities contiguous to large cities are not eligible to apply. (4-4-13)

**02. County Applicants.** Counties may apply for county wide projects or on behalf of unincorporated communities. Counties cannot apply for projects that benefit larger cities. (3-15-02)

**03. Special Purpose Districts.** Special purpose districts are not eligible, although they may be involved in the execution of a project by mutual agreement. (3-15-02)



**04. Indian Tribes.** Indian tribes may be considered as an applicant or may be a partner in a project by mutual agreement. (3-15-02)

**012. GRANT PROGRAM.**

**01. Eligible Activities.** (3-15-02)

**a.** Projects to provide or expand the capacity of infrastructure, usually water, sewer or streets, or other infrastructure utilities to a specific business expansion or new location, that will result in job creation; (3-15-02)

**b.** Acquisition and/or rehabilitation of real property to lease/purchase to a company for construction of a new plant building; (3-15-02)

**c.** Construction of a commercial building for a company to lease/purchase; (3-15-02)

**d.** Provision of publicly regulated utilities such as telecommunications, power, gas and rail upgrades needed for business expansions; (3-15-02)

**e.** Match for other state and federal funding programs, including, but not limited to the Community Development Block Grant Program and Economic Development Administration grants; (3-15-02)

**f.** Consulting, engineering and planning studies needed for a potential grant project; (3-15-02)

**g.** Elimination of substandard physical conditions that impair sound growth or presents an economic liability on an area or spot basis. (3-15-02)

**h.** Funds may be used to finance the substantial rehabilitation of privately owned existing buildings or structures used for business, commercial, or industrial purposes. (3-15-02)

**02. Other Eligible Activities.** (3-15-02)

**a.** Code Enforcement. Code enforcement involves the payment of salaries and overhead cost directly related to the enforcement of local codes. RCBG funds may be used only in deteriorated or deteriorating areas where enforcement, together with public or private improvements or services, may be expected to arrest the decline of the area. (3-15-02)

**b.** Environmental Review. Environmental review of the environmental conditions or impact of a project. (3-15-02)

**c.** Mixing Eligible and Ineligible Activities. A public facility eligible for RCBG assistance may be funded even if it is part of a multiple-use building containing ineligible uses if: (3-15-02)

**i.** The eligible portion of the building is a designated and discreet area of the building; (3-15-02)

**ii.** The applicant can determine the costs attributable to the eligible use or eligible portion of the facility as distinct from the overall costs of the facility. (3-15-02)

**d.** Clearance of Buildings. Clearance, demolition, removal of buildings and facilities, and movement of structures to other sites. (3-15-02)

**e.** Disposition of Property. Costs associated with the disposition (through sale, lease, donation, or otherwise) of any real property acquired with RCBG funds, or with the retention of real property for public purposes. Reasonable costs of temporarily managing such property (or property acquired under urban renewal) until final disposition of the property is made. Disposition costs include fees paid for: appraisals, surveys, marketing, legal services, financial services, transfer taxes and other costs involved in the transfer of ownership of property. Any proceeds from the disposition of such property is considered program income. (3-15-02)

**f.** Relocation Payment. Relocation payments and assistance for displaced individuals, families, business organizations, and farm operations when determined by the grantee to be appropriate. (3-15-02)

**g.** Administrative Activities. Payment of reasonable administrative costs and carrying charges related to the planning and implementation, including the management, coordination and monitoring of activities necessary for the completion of successful grant projects. These cost may not exceed five percent (5%) of the RCBG. (3-15-02)

**h.** Technical Assistance. RCBG funds may be used by the grantee (or provided by a grantee to a sub-grantee) to increase their capacity to carry out eligible economic development activities. Such costs are not included in the five percent (5%) limitation on administrative and planning costs. (3-15-02)

**i.** Allowable Costs in Application. An applicant may be reimbursed for some of the administrative or engineering costs incurred during the preparation of the application. No such expenses incurred will be reimbursed unless a grant is awarded. Such expenses are the responsibility of the applicant if a grant is not awarded. Any such administrative costs become part of and cannot exceed the five percent (5%) limitation on administrative costs of the grant. (3-15-02)

**013. INELIGIBLE ACTIVITIES.**

As a general rule, any activity not authorized in these rules is ineligible to receive RCBG funds. (3-15-02)

**01. General Conduct of Government.** Assistance to buildings, or portions thereof, used predominantly for the general conduct of government. However, the removal of architectural barriers and historic preservation of such building is eligible. Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body or the recipient meets regularly, courthouses, jails, police stations, and other state or local government office buildings. Also ineligible are school buildings, school offices, and university and college vocational-technology facilities. Where acquisition of real property includes an existing building and improvements, part of which is to be utilized for the general conduct of government, the acquisition cost attributable to the land is eligible, provided a national objective is met with the other eligible use of the property and building. Only the portion of the building required for the eligible activity is an eligible grant expense. (3-15-02)

**02. Local Government Expenses.** Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with RCBG funds. (3-15-02)

**03. Political Purposes.** (3-15-02)

**04. Churches.** (3-15-02)

**05. Equipment.** The purchase of equipment, fixtures, motor vehicles, furnishings or other personal property, which is not an integral structural fixture, is generally ineligible. RCBG funds may be used; however, to purchase such items when necessary for use by a recipient or its sub-recipients in the administration of activities assisted with RCBG funds. (3-15-02)

**06. Operating and Maintenance Expenses.** (3-15-02)

**014. -- 018. (RESERVED)**

**019. GRANT APPLICATION PROCESS.**

The required RCBG Application process is described in the RCBG Application Handbook. (3-15-02)

**020. SUBMITTAL OF APPLICATIONS.**

Applications must be mailed or hand-delivered to the Department's mailing address. (3-15-02)

**021. APPLICATION REVIEW.**

Any applicant or project not meeting the threshold criteria is disqualified and the application will not be reviewed further. (3-15-02)

**022. PRESENTATION TO ECONOMIC ADVISORY COUNCIL.**

- 01. Presentations.** Presentations must be made by key elected officials of the applicant. These elected officials include mayors, council members or county commissioners or other project partners. The presentation should include: (3-15-02)
- a. The need for the project; (3-15-02)
  - b. The local commitment to the project; (3-15-02)
  - c. The economic impact of the project on the community; and (3-15-02)
  - d. Any additional information that should be given special consideration. (3-15-02)
- 023. REVIEW AND RANKING CRITERIA FOR RURAL COMMUNITY APPLICATIONS.** (3-15-02)  
(One Thousand (1,000) Points Possible.)
- 01. Community Distress Factors -- Two Hundred (200) Points.** (3-15-02)
- a. High unemployment. (3-15-02)
  - b. Low per capita income. (3-15-02)
  - c. Sudden distress. (3-15-02)
  - d. Other long term distress factors. (3-15-02)
  - e. Lack of developed business sites/infrastructure. (3-15-02)
  - f. Lack of resources to impact distress factors. (3-15-02)
- 02. Project Benefits -- Two Hundred (200) Points.** (3-15-02)
- a. Impact on distress factors. (3-15-02)
  - b. Direct job creation or retention. (3-15-02)
  - c. Job quality and fringe benefits. (3-15-02)
  - d. Indirect secondary jobs. (3-15-02)
  - e. Project and business management capacity. (3-15-02)
  - f. Long-term program. (3-15-02)
  - g. Indirect investment potential. (3-15-02)
  - h. Direct investment in community asset. (3-15-02)
  - i. Minority benefit. (3-15-02)
- 03. Community Project Support -- Two Hundred (200) Points.** (3-15-02)
- a. Project support and involvement. (3-15-02)
  - b. Local investment. (3-15-02)
  - c. Other match. (3-15-02)

- 04. Project Feasibility -- Two Hundred (200) Points.** (3-15-02)
  - a.** Planning, costs and schedule. (3-15-02)
  - b.** Cost estimates. (3-15-02)
  - c.** Business Commitment. (3-15-02)
  - d.** Creation of marketable asset. (3-15-02)
- 05. Economic Advisory Council -- Two Hundred (200) Points.** (3-15-02)
- 024. -- 030. (RESERVED)**
- 031. STANDBY APPLICATIONS.**

At its quarterly meeting, the Economic Advisory Council may recommend Applications for funding even though not enough funds are available to fund the project(s). These Applications become standby projects. Standby projects must be eligible for funding should additional funds become available or surplus funds exist. At any subsequent quarterly meeting, the Advisory Council may review and recommend a standby project to the Governor for funding. Standby status must continue through the fourth quarterly meeting. The application must remain eligible and must continue to meet all requirements of the program rules. (3-15-02)
- 032. LOSS OF VIABILITY.**
  - 01. Loss of Viability Criteria.** (3-15-02)
    - a.** The inability to secure the other project financing; (3-15-02)
    - b.** The lack of due diligence to pursue the implementation of project requirements; (3-15-02)
    - c.** The lack of local coordination with all funding and regulatory agencies; (3-15-02)
    - d.** The inability to develop agreements necessary to manage the cash flow and ownership of the project where several different entities are involved in the project; or (3-15-02)
    - e.** The inability to complete a project of the same general size and benefits as presented in the application. (3-15-02)
  - 02. Process.** (3-15-02)
    - a.** If, during the period between the award of a grant and signing of a grant contract, a project loses its viability, the Department may terminate its award status. The Department must, by letter, notify the applicant that in the judgment of the Department, the applicant's project is no longer viable. The applicant will have a clearly stated period of time no less than fourteen (14) days to demonstrate the project's viability. If viability cannot be demonstrated within the stated period of time the applicant's award status will be terminated and the funds may be available for the next standby project. (3-15-02)
    - b.** After a grant contract has been executed, the Department will periodically evaluate the progress of the project. If, at any time, the project loses viability or cannot be completed as described in the application and contract, the Department must, by letter, notify the grantee that the grant contract will be terminated within a clearly stated period of time of no less than fourteen (14) days from the date of the letter. The grantee may, within the stated period, demonstrate substantial progress on the project and request the Department revoke the termination. If viability cannot be demonstrated within the specified amount of time, the grant will be terminated. (3-15-02)
- 033. -- 999. (RESERVED)**

**IDAPA 28  
TITLE 02  
CHAPTER 07**

**28.02.07 – RULES GOVERNING THE ADMINISTRATION OF THE IGEM GRANT PROGRAM**

**000. LEGAL AUTHORITY.**

These rules are promulgated under the legal authority of Sections 67-4702 and 67-4729, Idaho Code. (3-20-14)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 28.02.07, Idaho Department of Commerce, “Rules Governing the Administration of the IGEM Grant Program.” (3-20-14)

**02. Scope.** These rules establish procedures for the administration of the IGEM Grant Program. (3-20-14)

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of these rules are available from the Idaho Department of Commerce. (3-20-14)

**003. ADMINISTRATIVE APPEALS.**

The award of grants under the IGEM Grant Program is a discretionary action to be performed by the Idaho Department of Commerce. There is no provision for administrative appeal under these rules. (3-20-14)

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into the rules. (3-20-14)

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The headquarters of the Idaho Department of Commerce is in Boise, Idaho. Office hours are from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The Department’s mailing address for information regarding the IGEM Grant Program is: Idaho Department of Commerce, P.O. Box 83720, Boise ID 83720-0093. The street address is 700 West State Street, Boise, Idaho. The telephone number is (208) 334-2470 and the FAX number is (208) 334-2631. (3-20-14)

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-20-14)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

As used in this chapter: (3-20-14)

**01. Department.** Idaho Department of Commerce. (3-20-14)

**02. Eligible Applicant.** Idaho research universities: Boise State University, Idaho State University, and University of Idaho. (3-20-14)

**03. IGEM Council.** Idaho Global Entrepreneurial Mission Council as defined in Section 67-4726, Idaho Code. (3-20-14)

**04. IGEM Executive Committee.** The IGEM Executive Committee is made up of the IGEM Council chairman, the director of the Idaho Department of Commerce, and the Idaho State Board of Education member of the IGEM Council. (3-20-14)

**05. IGEM Grant Program.** A grant program established to further the purpose as described in Section 100 of these rules. (3-29-17)

**06. University.** As used in these rules, University means Boise State University, Idaho State University, and the University of Idaho. (3-20-14)

**07. Industry Partner.** A domestic or foreign entity that designs, produces, or sells goods or services or that contractually agrees to undertake such acts in connection with technologies licensed or otherwise transferred to the entity by a University, and that is partnered with an Eligible Applicant. (3-29-17)

**011. ABBREVIATIONS.**  
As used in this chapter: (3-20-14)

**01. IGEN.** Idaho Global Entrepreneurial Mission. (3-20-14)

**02. RFP.** Request for Proposal. (3-20-14)

**012. -- 099. (RESERVED)**

**100. PURPOSE.**  
The IGEN Grant Program funds commercialization grants supporting University and industry research partnerships for the purpose of enhancing technology transfer and commercialization of research and technologies developed at the Universities to create high-quality jobs and new industries in the private sector in Idaho. (3-20-14)

**101. -- 199. (RESERVED)**

**200. REQUEST FOR PROPOSAL (RFP).**  
The Department will release a RFP outlining the process and requirements for Eligible Applicants to apply for IGEN Grant Program awards. The RFP must include requirements for performance measures and reporting. Awarded programs that fail to meet the requirements set forth in the RFP may be terminated. (3-29-17)

**201. -- 299. (RESERVED)**

**300. SELECTION PREFERENCE.**  
In selecting IGEN proposals for award, the IGEN Council gives greater weight to proposals that partner with Idaho based entities. (3-20-14)

**301. MATCHING REQUIREMENT.**  
All approved awards are required to include a monetary or in-kind contribution from the Industry Partner(s). (3-29-17)

**302. -- 399. (RESERVED)**

**400. TERMINATION OF FUNDING.**  
Funding for projects may be terminated by the Department at any time for failure to meet the program requirements set out in the RFP and in the funding agreement or for the misuse of IGEN funds. Upon receipt of a written notice of termination from the Department, the grantee must immediately stop all expenditures of IGEN funds. The Department will make a final payment to the grantee based on the work completed, allowable costs incurred, and the documentation provided by the grantee as required by these rules. (3-29-17)

**401. -- 499. (RESERVED)**

**500. COMMERCIALIZATION REVENUE.**  
Commercialization revenue, revenue generated through the commercialization of university intellectual property rights in a work authored or an invention conceived or first reduced to practice in the performance of an IGEN grant award are distributed as outlined in Section 67-4731, Idaho Code. (3-29-17)

**501. -- 999. (RESERVED)**

**IDAPA 28  
TITLE 03  
CHAPTER 01**

**28.03.01 – RULES OF THE IDAHO OPPORTUNITY FUND**

**000. LEGAL AUTHORITY.**

These rules are promulgated under the legal authority of Section 67-4733, Idaho Code. (3-20-14)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled IDAPA 28.03.01, “Rules of the Idaho Opportunity Fund.” (3-20-14)

**02. Scope.** These rules implement House Bill H100, enacted by the First Regular Session of the Sixty-second Legislature and signed into law on March 21, 2013. These rules amend Chapter 47, Title 67, Idaho Code, by the addition of new sections 67-4732 through 67-4736, Idaho Code. The three (3) new sections provide a short title and legislative intent, provide rulemaking authority to the Director of the Department of Commerce create the Opportunity Fund in the State Treasury, provide for the makeup and use of the fund, provide that agreements are required for disbursement of funds and provide for annual reporting by the Director of the Department of Commerce. (3-20-14)

**002. WRITTEN INTERPRETATIONS.**

The Department has no written interpretations of these rules. (3-20-14)

**003. ADMINISTRATIVE APPEALS.**

The award of grants under the Opportunity Fund are made at the discretion of the Director of the Department of Commerce. In light of the discretionary nature of awarding these grants, there is no administrative appeal under these rules. (3-20-14)

**004. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The mailing address of the Department for information regarding the Opportunity Fund Act is: 700 West State Street, PO Box 83720, Boise, ID 83702-0093; the telephone number is (208) 334-2470; and the facsimile number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8am to 5pm, Monday through Friday, excluding holidays. (3-20-14)

**005. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 74, Chapter 1, Idaho Code). (3-20-14)

**006. -- 009. (RESERVED)**

**013. DEFINITIONS.**

**01. Company Performance Agreement.** An agreement between a local government and a Grantee Business, in addition to any requirements in rules adopted by the Department. (3-20-14)

**02. Department.** Idaho Department of Commerce. (3-20-14)

**03. Grantee Business.** A non-governmental company or organization that receives funding through a Company Performance Agreement. (3-20-14)

**04. Local Government Grant Agreement.** An agreement between the Department and one (1) or more local governments. (3-20-14)

**05. Public Cost.** Any cost incurred by the state of Idaho or local government of the state of Idaho for the purpose of promoting economic development to retain, expand, or attract quality jobs in industries deemed vital to the health of the local and statewide economy. Public costs do not include impact fees or easements. (3-20-14)

**014. GRANT AWARDS.**

**01. Funding.** The Director of the Department may, in his sole discretion, award Opportunity Fund grants to local government for public costs incurred with the purpose to retain, expand or attract jobs which include: (3-20-14)

**a.** Construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations; (3-20-14)

**b.** Flood zone or environmental hazard mitigation; or (3-20-14)

**c.** Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects. (3-20-14)

**02. Local Match.** The local government must provide allowable local match. Allowable match includes those costs which are allowable within the Opportunity Fund and must be provided by the local government as cash, in-kind services, fee waivers (such as development impact fees), donation of assets, the provision of infrastructure or a combination thereof. The match must represent a material commitment from the local government that is commensurate with the local government's financial condition. The Director of the Department has the authority to approve other forms of local match or waive the local match requirements. (3-20-14)

**03. Local Government Grant Agreements.** Local Government Grant Agreements will be entered into between the Department and one (1) or more local governments, and must contain the following provisions: (3-20-14)

**a.** A commitment on the part of the local government to match, in whole or in part, the funds allocated by the Department; (3-20-14)

**b.** A provision requiring the local government to recapture any funds to which the local government is entitled under the Company Performance Agreement; (3-20-14)

**c.** A provision requiring repayment from the local government to the Department for any funds used for unapproved purposes or disbursed prior to compliance with the Company Performance Agreement or achievement of the job creation or other performance targets; (3-20-14)

**d.** A provision allowing the Department access to records possessed by the local government necessary to ensure compliance with the Company Performance Agreement and with the requirements of the Opportunity Fund; (3-20-14)

**e.** A provision establishing a schedule for the disbursement of funds from the Opportunity Fund to the local government that reflects the disbursement schedule established in the Company Performance Agreement; and (3-20-14)

**f.** Any other lawful provision the Department deems necessary to ensure the proper use of state funds. (3-20-14)

**04. Company Performance Agreements.** Company Performance Agreements will be entered into between one (1) or more local governments and a Grantee Business, and may contain the following provisions: (3-20-14)

**a.** A commitment to create or retain a specified number of jobs within a specified salary range at a specific location; (3-20-14)

**b.** A commitment regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained; (3-20-14)



- c.** A commitment to complete the construction related to the agreed upon capital expenditures; (3-20-14)
- d.** A provision that a reasonable percentage of the total amount of the grant be withheld until specified performance targets are met; (3-20-14)
- e.** A provision that a reasonable percentage of the total amount of the grant be withheld until the specified number of jobs are maintained for a specified period of time; (3-20-14)
- f.** A commitment to provide proof satisfactory to the local government and the Department of new jobs created or existing jobs retained and the salary level of those jobs; (3-20-14)
- g.** A provision that funds received under the Company Performance Agreement may be used only for a purpose as authorized by the Opportunity Fund; (3-20-14)
- h.** A provision allowing the Department or the local government to inspect the records of the Grantee Business as required to confirm compliance with the Company Performance Agreement or with the requirements of the Opportunity Fund. The provision must limit the access of the Department and/or local government to only those records of the Grantee Business that are necessary to ensure compliance; (3-20-14)
- i.** A provision establishing the method for determining compliance with the Company Performance Agreement; (3-20-14)
- j.** A provision establishing a schedule for disbursement of funds under the Company Performance Agreement that allows disbursement of funds only in proportion to the amount of performance completed under the Company Performance Agreement; (3-20-14)
- k.** A provision requiring repayment of grant funds and corresponding terms for repayment, if applicable, in the event a Grantee Business subsequently fails to comply with the terms of the Company Performance Agreement; (3-20-14)
- l.** A provision that any repayments of grant funds required if the performance targets are not achieved may be prorated to reflect a partial attainment of job creation or other performance targets; and (3-20-14)
- m.** Any other lawful provision the Department or the local government finds necessary to ensure the proper use of state or local funds. (3-20-14)

**05. Disbursements.** Funds will be disbursed from the Opportunity Fund to the local government as defined in the Local Government Grant Agreement and after the local government has demonstrated that the Grantee Business has complied with the terms of the Company Performance Agreement. (3-20-14)

**06. Award Amounts.** The amount of each grant is determined by the Director, in his sole discretion. (3-20-14)

**016. REPORTING.**

**01. Quarterly.** The Director of the Department reports to the Economic Advisory Council quarterly on the grant activity and performance. (3-20-14)

**02. Annually.** The Director of the Department publishes an annual report regarding the state of the Opportunity Fund no later than September 30 each year. The report must contain information on the commitment of funds, disbursement and use of the funds, the number of jobs committed and created, the total capital expenditures resulting from grant funds and the median wage of total jobs created. The annual report will be made available to the Governor, the Joint Finance-Appropriations Committee and the public. (3-20-14)

**017. -- 999. (RESERVED)**

**IDAPA 28  
TITLE 04  
CHAPTER 01**

**28.04.01 – RULES GOVERNING THE IDAHO REIMBURSEMENT INCENTIVE ACT**

**000. LEGAL AUTHORITY.**

These rules are promulgated under the legal authority of Section 67-4744, Idaho Code. (4-11-15)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled IDAPA 28.04.01, “Rules Governing the Idaho Reimbursement Incentive Act.” (4-11-15)

**02. Scope.** These rules implement House Bill No. 546, as amended in the Senate, and enacted by the Second Regular Session of the Sixty-second Legislature and signed into law on April 3, 2014. These rules amend Chapter 47, Title 67, Idaho Code, by the addition of new sections 67-4737 through 67-4744, Idaho Code. The seven (7) new sections provide rulemaking authority to the Director of the Department of Commerce, a short title and legislative intent, an application and pre-application process, formation of incentive agreements with the business entity, reimbursement to the business entity through an earned tax credit, annual reporting procedure and requirement of an annual report to the Legislature by the Director of the Department of Commerce. (4-11-15)

**002. WRITTEN INTERPRETATIONS.**

The Department may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. These documents are available for public inspection at the Department’s office. (4-11-15)

**003. ADMINISTRATIVE APPEALS.**

The award of a credit under the Tax Reimbursement Incentive Act is made at the recommendation of the Director of the Department of Commerce and approval of the Economic Advisory Council (Council). In light of the negotiated nature of awarding the Tax Reimbursement Incentive (TRI), there is no administrative appeal under these rules. Nothing in this section prohibits an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code. (4-11-15)

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (4-11-15)

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The mailing address of the Department for information regarding the Tax Reimbursement Incentive Act is: 700 West State Street, PO Box 83720, Boise, ID 83702-0093; the telephone number is (208) 334-2470; and the facsimile number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8am to 5pm, Monday through Friday, excluding holidays. (4-11-15)

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 74, Chapter 1, Idaho Code). (4-11-15)

**007. -- 099. (RESERVED)**

**100. DEFINITIONS AND ABBREVIATIONS.**

Unless defined below, all words have the meaning ascribed in Chapter 47, Title 67, Sections 67-4737 through 67-4744, Idaho Code. The statutory definitions can be found here: <http://legislature.idaho.gov/idstat/Title67/T67CH47SECT67-4738.htm>. (4-11-15)

**01. Incentive Agreement.** A reimbursement contract between the Department and the business entity which details any instruction provided by the Council in addition to the requirements detailed in Chapter 47, Title 67, Section 4740, Idaho Code. Also referred to as an Agreement. (4-11-15)

**02. Pre-Application.** A form, paper or electronic, that is completed by the business entity or on behalf

of the business entity by an authorized economic development or local government representative when details about the Meaningful Project are not fully known. A pre-application necessitates that an application is completed by the business entity or its authorized representative at a later time, and prior to award of a tax credit. (4-11-15)

**03. Tax Reimbursement Incentive Act (TRI).** A performance based tax reimbursement mechanism available to existing Idaho businesses and new businesses creating jobs in Idaho. Also known as the Idaho Reimbursement Incentive Act. (4-11-15)

**101. -- 129. (RESERVED)**

**130. PROGRAM INTENT.**

The TRI is designed to accelerate the growth of new business opportunities, encourage the creation of high-paying jobs, and diversify the state's economy. The Tax Reimbursement Incentive is a performance-based economic development tool that provides a refundable tax credit up to thirty percent (30%) for up to fifteen (15) years on new business entity income tax, sales tax, and payroll taxes paid as a result of meaningful project. The TRI will perpetually generate the revenues needed to fund the incentive. (4-11-15)

**01. Available Credit.** This credit is available to both existing and new companies seeking expansion in the state. The tax credit percentage and project term are negotiated based upon the quantity and quality of jobs created, state/regional economic impact and return on investment for Idaho, among others. The credit authorized must be the lowest approved percentage and term that will incentivize creation of new jobs and New State Revenue. (4-11-15)

**02. Evaluation and Recommendation.** Incentives will be evaluated and recommended to the Council by the Director, with final approval by the Council. The TRI will be governed by detailed incentive agreements between the Department and business entity. (4-11-15)

**131. -- 149. (RESERVED)**

**150. ELIGIBILITY.**

**01. Eligible Recipients.** Recipients of the TRI are limited to existing business entities located in Idaho seeking to expand their companies within the state of Idaho, and business entities, new to Idaho, seeking to relocate to, or expand in, the state of Idaho. (4-11-15)

**02. Eligible Projects.** An eligible project is an expansion of an existing business located in Idaho or the creation of new business operations in Idaho that generate the minimum required new jobs based on rural or urban location. (4-11-15)

**151. JOB CREATION CRITERIA.**

**01. Rural Community.** The minimum new jobs required for a rural community is not less than twenty (20) over the term of the project. (4-11-15)

**02. Urban Community.** The minimum new jobs required for an urban community is not less than fifty (50) over the term of the project. (4-11-15)

**03. New Jobs.** New jobs must exceed the business entities' maximum number of full times jobs in Idaho during the twelve (12) months immediately preceding the date of the application. (4-11-15)

**04. Job Shift.** A job that shifts from one (1) location within the state of Idaho to another location within the state of Idaho is not considered a new job. (4-11-15)

**05. New Jobs Wages.** New jobs wages must equal or exceed the average annual county wage in the county where the jobs are located. The Department will annually publish the average county wage based on the most recent, non-preliminary information, obtained from the Idaho Department of Labor. (4-11-15)

**152. APPLICATION PROCESS.**

**01. Inquiry.** The business entity, or its authorized representative, may engage an authorized representative from the Department to complete an initial screening process. The screening process will assist the business entity in determining to proceed with a pre-application or application. Information necessary during screening includes general details about the Project, the number of full-time jobs, the number of new jobs, the minimum new jobs, the rural or urban area under consideration, the industry, the community contribution, as well as any other information requested to determine eligibility. The business entity, in consultation with the Department's representative, makes a determination to proceed with a pre-application or a full application depending on the project timeline, known project details or other factors associated with the project. (4-11-15)

**02. Pre-Application.** After the business entity's determination to proceed with a pre-application, the business entity, or its authorized representative, will be provided with a pre-application. A pre-application may be completed by the business entity or an authorized representative of the business entity, such as an economic development or local government representative. A pre-application must detail the following: (4-11-15)

**a.** A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; (4-11-15)

**b.** A statement of dependency explaining whether the project will occur or how it will be altered if the application is denied by the council; (4-11-15)

**c.** A letter from the city or county, or both, expressing a commitment to supply community contribution; (4-11-15)

**d.** Detailed description of the proposed capital investment; (4-11-15)

**e.** Detailed description of jobs to be created, an approximation of the number of such jobs to be created and the projected wages to be paid for such jobs; and (4-11-15)

**f.** Detailed description of the estimated new state tax revenues by tax to be generated by the project. (4-11-15)

**03. Pre-Application Estimate Letter.** Upon review and acceptance of a pre-application, the Director may issue an estimate letter to the business entity or its authorized representative, or both, which describes the estimated amount of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. This letter is not a binding commitment but an estimate based on the initial information supplied in the pre-application. (4-11-15)

**04. Application.** After the business entity's determination to proceed with an application, the business entity will be given access to the application, which must include, but not be limited to, the following information: (4-11-15)

**a.** A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; (4-11-15)

**b.** An affidavit of criticality explaining that without the TRI incentive, the business entity would be forced to alter its project or not choose Idaho; (4-11-15)

**c.** A letter from the city or county, or both, describing their commitment to supply community contribution, a specific description of the contribution, and the amount of the contribution; (4-11-15)

**d.** Business entities currently doing business in Idaho will supply a letter from the Idaho State Tax commission confirming that the business entity is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission; (4-11-15)

**e.** An estimate of Idaho goods and services to be consumed or purchased by the business entity during

- the term; (4-11-15)
- f. Known or expected detriments to the environment or existing industries in the state; (4-11-15)
  - g. An anticipated project inception date and proposed schedule of progress; (4-11-15)
  - h. Any proposed performance requirements and measurements that must be met prior to issuance of the tax credit; (4-11-15)
  - i. A description of any proposed capital investment; (4-11-15)
  - j. A detailed schedule and description of the projected jobs to be created, the projected wages to be paid for those jobs, and the anticipated hiring schedule for those jobs; and (4-11-15)
  - k. The estimated new state tax revenues to be generated by the project. (4-11-15)

**05. Application Recommendation Letter.** Upon review of an application, the Director may issue a letter that details the Director's anticipated recommendation to the Council. The letter may include the percentage of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. All application recommendation letters must contain a "subject to Economic Advisory Council approval" contingency clause. (4-11-15)

**06. Technical Review - Pre-Application.** The Director and Department staff will complete a technical review of each pre-application. Upon satisfaction that all pre-application requirements are met, the Director may issue an estimate letter. (4-11-15)

**07. Technical Review - Application.** The Director of the Department and Department staff will complete a technical review and economic impact analysis of each application. The technical review will consider many economic factors and external information sources such as, but not limited to, the region, industry, financial health and history of the business entity, as well as the quality, quantity and economic impact of new jobs and new state revenue. Upon satisfaction that all application requirements are met, the Director may submit a recommendation for award to the Council. (4-11-15)

**08. Economic Advisory Council.** The Council reviews the application and the Director recommendations. Following review the council has the following three (3) options: (4-11-15)

- a. Request additional information or action from the Director in order to obtain necessary information to approve or reject the application; or (4-11-15)
- b. Approve the application and instruct the Director to enter into an incentive agreement with the business entity; or (4-11-15)
- c. Reject the application. (4-11-15)
- d. An approval or rejection from the council is not considered a contested case pursuant to Chapter 52, Title 67, Idaho Code, provided, however, that nothing in this section prohibits an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code. (4-11-15)

**09. Pre-Application Schedule.** The pre-application is open year round. Review of pre-applications are subject to the meeting schedule of Department staff. (4-11-15)

**10. Application Schedule.** The application is open year round. Review of applications is subject to the meeting schedule of Department Staff and the Council. The Council will meet no less than quarterly and has the ability to meet more often at the request of the Director. (4-11-15)

**153. -- 159. (RESERVED)**

**160. CONFLICT OF INTEREST.**

Conflict of Interest is defined by Idaho's Office of the Attorney General as any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or member of the person's household, or a business with which the person or a member of the person's household is associated. In the event Department staff, including the Director has a conflict of interest regarding an application, the conflict must be fully disclosed to the Director and the Council, and that person must abstain from decision making or evaluation of the application. In the event a Council member has a conflict of interest regarding an application, the Council member must fully disclose such conflict to the Director and the Council, and that Council member must abstain from discussing or voting on the application. (4-11-15)

**161. -- 169. (RESERVED)**

**170. AGREEMENTS.**

**01. Incentive Agreement.** At the direction of the Council, and in accordance with the criteria established by these rules, the Director enters into an incentive agreement with the business entity. (4-11-15)

**02. Agreement Terms Defined.** The incentive agreement contains any terms as approved by the Council, or deemed necessary by the state Deputy Attorney General, as well as defines the following: (4-11-15)

- a.** Maximum term that is not to exceed fifteen (15) years; (4-11-15)
- b.** Projected new state revenues to be generated during the term; (4-11-15)
- c.** Method and recordkeeping requirements to determine projected new state revenue to be generated; (4-11-15)
- d.** The approved tax credit percentage applied to new state revenue each year the business entity is entitled to receive the reimbursement during the term of the meaningful project; (4-11-15)
- e.** The projected new jobs; (4-11-15)
- f.** The terms and conditions of any and all performance requirements and measurements that must be met prior to the issuance of a tax credit authorization; (4-11-15)
- g.** The agreed upon and necessary proof of compliance required prior to tax credit issuance. Proof of compliance provided by the business entity must be adequate to demonstrate to the director that all requirements and measurements have been met for the business entity to receive the tax credit; (4-11-15)
- h.** The consequences of default by the business entity; (4-11-15)
- i.** The period to be used to determine the taxes paid at the date of application; (4-11-15)
- j.** Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. (4-11-15)
- k.** The federal employer identification or social security number for each individual or entity stated as the business entity in the incentive agreement; and (4-11-15)
- l.** Identification of the individual or entity that is or will be claiming the refundable credit. (4-11-15)

**171. -- 179. (RESERVED)**

**180. TAX CREDIT AUTHORIZATION.**

**01. Claiming Tax Credit.** No business entity may claim a tax credit unless the business entity has a tax credit authorization issued by the Department. A business entity may claim a tax credit on its tax return, in the amount listed on the tax credit authorization for the year listed on the tax credit authorization. (4-11-15)

**02. Duplicate Copy.** The Department must provide a duplicate copy of any tax credit authorization to the Tax Commission. (4-11-15)

**181. -- 189. (RESERVED)**

**190. ANNUAL REPORTING BY APPLICANT.**

Required Annual reporting must be outlined in the incentive agreement and will include, but not be limited to, the following: (4-11-15)

**01. New State Revenues.** Supporting documentation of the new state revenues from the business entity's new project that were paid during the preceding calendar year. (4-11-15)

**02. New Jobs Created.** Supporting documentation of the new jobs that were created during the preceding tax year and the corresponding payroll information associated with the new jobs. (4-11-15)

**03. Known or Expected Detriments.** Known or expected detriments to the environment or existing industries in the state. (4-11-15)

**04. Authorization Document.** A document that expressly directs and authorizes the Tax Commission and Department of Labor to allow the Department access to the business entity's returns, filings and other information that may be necessary to verify or otherwise confirm the declared new state revenues, the new jobs and the associated payroll information. (4-11-15)

**05. Tax Commission Letter.** A letter from the Idaho State Tax Commission confirming that the business entity is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission. (4-11-15)

**06. Other Entitled to Rebate.** Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. (4-11-15)

**07. Supporting Documentation.** Supporting documentation that the business entity has satisfied the measurements and requirements outlined in the incentive agreement. (4-11-15)

**191. ANNUAL REPORTING BY DEPARTMENT.**

The Department must create an annual written report for the Governor and the Legislature describing the following: (4-11-15)

**01. Successes.** The Department's success under this act in attracting new jobs; (4-11-15)

**02. Estimated Tax Credit Commitments.** The estimated amount of tax credit commitments made by the Department and the period of time over which tax credits will be paid; (4-11-15)

**03. Economic Impact to State.** The economic impact to the state related to generating new state revenue and providing tax credits under this act; (4-11-15)

**04. Estimated Costs and Benefits.** The estimated costs and economic benefits of the tax credit commitments that the Department made; and (4-11-15)

**05. Actual Costs and Benefits.** The actual costs and economic benefits of the tax credit commitments the Department made. (4-11-15)

**06. Submittal of Report.** The report must be submitted to the Office of the Governor and the

appropriate legislative committee chairmen in a timely manner following the close of the state's fiscal year.(4-11-15)

**192. -- 199. (RESERVED)**

**200. AUDIT.**

On or before November 1, 2015, and every year thereafter, the Department must arrange for an independent third party audit pursuant to Chapter 47, Title 67, Idaho Code. The Department must consider any audit recommendations provided during the audit and implement changes as necessary as a result of those recommendations. (4-11-15)

**201. -- 209. (RESERVED)**

**210. CONTINUATION OF TAX CREDIT.**

During the term of the project for each business entity, the Department will review the business entity's annual report. Provided the business entity provides a reasonable justification for authorizing or continuing a tax credit, the Department determines the amount of the tax credit to be granted, issue a tax credit authorization to the business entity, and provide a duplicate copy of the tax credit authorization to the Tax Commission. The amount of the tax credit to be continued must be in accordance with the credit percentages specified in the incentive agreement. The TRI will not be extended beyond the term and length specified in the incentive agreement. (4-11-15)

**211. TERMINATION OR SUSPENSION OF TAX CREDIT.**

During the term of the project for each business entity, the Department will review the business entity's annual report. If the information provided is inadequate or inaccurate to provide a reasonable justification for authorizing or continuing a tax credit, the Department may: (4-11-15)

**01. Denial of Tax Credit.** Deny the tax credit for that tax year; or (4-11-15)

**02. Termination of Agreement.** Terminate the incentive agreement for failure to meet the performance standards established in accordance with the terms outlined in the incentive agreement; or (4-11-15)

**03. Request for Additional Documentation.** Request the business entity to submit additional documentation. (4-11-15)

**212. -- 219. (RESERVED)**

**220. SUSPENSION OF IDAHO REIMBURSEMENT INCENTIVE ACT.**

The Director will suspend the issuance of all new incentive agreements with business entities upon the occurrence of the following conditions: (4-11-15)

**01. Temporary Spending Reduction.** The governor orders a temporary reduction of general fund spending authority, pursuant to Section 67-3512A, Idaho Code; and (4-11-15)

**02. Suspension of New Agreements.** The governor issues an executive order directing the Department to suspend the issuance of new incentive agreements during the tax year in which the temporary reduction of general fund spending authority has been ordered and the executive order issued. (4-11-15)

**03. Existing Approved Agreements.** In the case of suspension all agreements that have been approved by the Council prior to the governor issuing an executive order, as provided in Subsections 026.01 and 026.02 of these rules, will remain in full force and effect and shall not be modified or impaired as a result of the executive order. (4-11-15)

**04. Support of Existing Agreements.** During the period of time that new incentive agreements have been suspended, the Director will maintain the necessary services required to support all existing agreements and comply with all required reporting and review responsibilities. (4-11-15)

**05. Removal of Suspension.** The governor may remove the suspension issued by executive order. (4-11-15)

**221. -- 999. (RESERVED)**