

Title 74 – County Justice Reinvestment Grant Program

Chapter 1 – Distribution of County Justice Reinvestment Grant Program Funds

001 Purpose: To establish procedures governing the distribution and management of the County Justice Reinvestment Grant program funds by the Nebraska Commission on Law Enforcement and Criminal Justice. Counties may apply for grants one year after August 30, 2015.

002 Scope: Applicable to all counties within the State of Nebraska operating an adult detention facility requesting and receiving funds distributed by the Commission with the intent to offset jail costs as set out in Neb. Rev. Stat. §81-1426.01 Cumulative Supplement 2015.

003 Reference: Neb. Rev. Stat. §81-1426.01

004 Definitions: The following terms and definitions will be utilized for purposes of this chapter:

004.01 Average Daily Jail Population means the total number of individual post-adjudicated inmates days divided by 365. The total number of inmate days is a cumulative total of all days served by individual inmates during the fiscal year.

004.02 Custodial Sanctions are sanctions imposed by the court as outlined in Neb. Rev. Stat. §29-2266, consisting of up to three days in jail or up to thirty days in jail, as imposed by the court.

004.03 Post-adjudication inmates mean inmates being held in the county jail who are serving sentences or custodial sanctions.

004.04 Commission is the Nebraska Commission on Law Enforcement and Criminal Justice.

004.05 County Justice Reinvestment Grant Program Funding Formula is an apportionment based on the specific jail's percentage of the entire state jail post-adjudicated inmate population.

004.06 Applicant is any county in the state of Nebraska that is eligible to apply for County Justice Reinvestment Grant Program Funds.

004.07 Executive Director is the individual who is responsible for the supervision of the policies as established by the Commission and has the powers and duties as outlined in Nebraska Revised Statute §81-1425.

004.08 Staff Review Team shall be made up of four employees of the Commission, to include the Community Corrections Division staff.

004.09 Request for Application is the announcement and solicitation for County Justice Reinvestment Grant Program applications that is distributed as aid by the Commission as outlined in the chapter. The Request for Application includes, but is not limited to program specifications and application procedures.

005 Funding Eligibility

005.01 All counties with adult detention facilities may apply if their average daily population (ADP) has increased in the remainder of the fiscal year following August 30, 2015.

005.01A All counties who meet these criteria shall be awarded grant funds.

005.01B Funding formula will be based on the following:

005.01B(1) The county's percentage of post adjudicated inmate population relative to the total capacity of jails in the state of Nebraska

005.01B(2) Each county must identify and submit to the Commission its average daily post adjudicated inmate population for the three previous fiscal years (FY 12/13, 13/14, and 14/15).

005.01B(3) Each county must identify and submit to the Commission its average daily post-adjudicated inmate population for fiscal year 2015/2016.

005.01B(4) If the county shows an increase in its average daily post-adjudicated inmate population in Fiscal year 2015/16 over the three previous fiscal years, they are eligible for an award of funds from the County Justice Reinvestment Grant Program.

006 Application Process

006.01 Notification of the availability of funds shall be announced by the Commission through a Request for Application. Such notification will include application requirements and instructions. Funding amount will be calculated by the County justice reinvestment grant program formula.

006.02 Applicants must submit an application for funds that demonstrate the applicant is eligible for County Justice Reinvestment Grants by identifying how funds will be used, the objective sought for the grant, the estimated savings and reduction in jail inmates, and how the applicant is prioritizing the use of the funds for programs, services, and approaches that reduce jail populations and costs.

006.03 Applications must be received by the Commission by the deadline specified in the request for application.

007 Review of Grant Application

007.01 All grant applications that were received by the appropriate deadline outlined in the Request for Application shall receive initial review by the Staff Review Team. Upon completion of the staff review, funding recommendations and summary comments will be sent to the Executive Director of the Commission.

007.01A In order to make a determination of eligibility for grant award, the staff review team will be looking for data that shows an increase in average daily jail population of post-adjudicated inmates, the county's prioritization of the use of funds for programs, services, and approaches that reduce jail populations, the objective sought for the grant, and the estimated savings and reduction in jail inmates.

007.01B In the event that there are questions arising from the application, the staff review team shall contact the applicant to request further information.

007.02 The Executive Director will conduct a final review of the grant application to ensure that the applicant is eligible to receive funds. The Executive Director shall take the grant proposal and recommendations from staff review under advisement and make the final funding decision.

007.03 Upon issue of the final decision, the Executive Director or his or her designee will notify applicants within ten (10) working days of the final decision.

008 Acceptance of Funds

008.01 Applicants who are approved to receive aid from the Commission will be required to accept the grant award subject to the conditions outlined in this chapter and specified by the Commission.

008.02 Applicants who are required to meet contingencies articulated by the Commission will have thirty (30) days from the notification of application approval to satisfy the requirements. Exceptions to the thirty (30) day deadline may be allowed on an individual basis, approved by the Executive Director of the Commission.

008.03 After contingencies have been approved by the Executive Director of the Commission, the applicant will be notified within ten (10) working days of the approval.

008.04 Once all the steps have been taken to award and approve all grant applications, applicants who have been awarded funds will adhere to all reporting requirements as outlined in this chapter and in Neb. Rev. Stat. 81-1426.01 Cumulative Supplement 2015.

009 Appeals Process

009.01 Applicants may appeal a denial of reinvestment award to the Commission. Appeals are limited to the following grounds: Partial denial of reinvestment award requested, or full denial of reinvestment award requested.

009.02 The basis for an appeal shall be limited to one or more of the following grounds: The decision being appealed was biased, arbitrary, or prejudiced against the applicant county, the decision being appealed was reached without following procedures outlined in this chapter, or the decision being appealed was reached without adherence to statutory requirements as specified in the County Justice Reinvestment Grant Program act, (81-1426.01).

009.03 Notice of appeal must be made in writing and submitted to the Executive Director within ten (10) working days of receipt of the denial of reinvestment award requested. Notice of an appeal shall identify the basis of the appeal, and will inform the Executive Director of the intent to file a full written appeal.

009.04 A full written appeal will detail the basis for the appeal, and include an explanation of why the reinvestment grant application satisfies the requirements of this chapter. The full written appeal will be submitted to the Crime Commission within (20) working days of the notice of appeal.

009.05 All proceedings shall be conducted in accordance with the Administrative Procedures Act, Nebraska Revised Statute 84-901 et seq. and with Title 53 of the Nebraska Administrative Code, Chapter 4, as they relate to pleadings, notice, ex parte communications,

prehearing conferences, discovery and the progression of the actual contested case at hearing

009.06 The burden of demonstrating that an appealed decision should be reversed is on the party filing the appeal. The burden of proof shall be by a preponderance of the evidence.

009.07 Should the applicant filing the appeal fail to meet deadlines to submit either the notice of appeal or the full written appeal, the appeal will be considered waived or the reinvestment grant decision shall be final.

009.08 The hearing shall be conducted before the Commission at its next available quarterly meeting. On appeal, the Commission will take into consideration the written appeal of the appellant, all recommendations for funding made during the application review process and testimony from parties made during the appeal hearing. The final appeal decision shall be determined by a majority vote of the Commission.

010 Reporting Requirements

010.01 Jail Data Collection: it is the responsibility of each county jail to collect data to be submitted to the commission annually. Data must be used in order to identify the contributing factors that increase the average daily jail population. In calculating average daily jail population, counties shall only include post adjudication inmates.

010.02 Data reports submitted to the Commission must contain, but are not limited to, the prioritization of the use of funds, objectives sought for the grant, and estimated savings and reduction in jail inmates.

011 If any one section of this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.