

ARTICLE 95-01

GENERAL ADMINISTRATION

Chapter  
95-01-01 Organization of Commission

CHAPTER 95-01-01  
ORGANIZATION OF COMMISSION

Section  
95-01-01-01 Organization of Agricultural Products Utilization Commission

**95-01-01-01. Organization of agricultural products utilization commission**

1. **History and function.** The agricultural products utilization commission was established by the legislative assembly in 1979. Its functions include administering a fuel tax fund and a subsidy program for agriculturally derived alcohol-blended fuels. The commission is now authorized by North Dakota Century Code chapter 4-14.1 to provide assistance to agriculturally related industry.
2. **Purpose of commission.** The purpose of the commission is to ~~provide assistance to research projects dealing with the development of new or expanded uses, or both, for North Dakota agricultural products; to develop the technical basis for more efficient systems for processing and marketing agricultural products and by-products; and to promote efforts to increase productivity and provide added value to agricultural products.~~ enact the provisions of the Code by supporting projects that are consistent with the Code and enhance opportunities in agricultural research, development, diversification, processing, technologies, marketing, and promotion.
3. **Commission membership.** The commission consists of nine members as designated in North Dakota Century Code section 4-14.1-03.

**History:** ~~Effective June 1, 1990.~~ Revised July 21, 2011.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-02

ARTICLE 95-02

RESEARCH AND MARKETING GRANT PROGRAM CATEGORIES AND GENERAL PROCEDURES FOR GRANT REQUESTS

Chapter

95-02-01	<u>Applicant Eligibility Categories of Grant Requests</u>
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CHAPTER 95-02-01

APPLICANT ELIGIBILITY Categories of Grant Requests

Section

95-02-01-01	<u>Applicant Eligibility Categories of Grant Requests</u>
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95-02-01-01. Applicant Eligibility Categories of Grant Requests.

1. Preference will be given to the applicants: The Commission will consider grant proposals submitted in the following categories:
  - a. Whose industrial and nonfood production processes utilize agricultural products: Basic and Applied Research
  - b. Whose food, feed, and fiber products and uses are innovative and add to the value of agricultural products: Marketing and Utilization
  - c. Cooperative Marketing
  - d. Nature Based Agri-Tourism
  - e. Technical Assistance for value-added businesses
  - f. Farm Diversification
  - g. Agricultural Prototype Development
  - h. Agricultural Technologies
  - i. North American Marketing
  - b-j. Other agricultural-based initiatives as directed by Legislature
2. Consideration will not be given to applications for:
  - a. Research which does not clearly meet the commission's stated objectives.
  - b. Proposals which are aimed solely at business expansion or creation without regard to agricultural products utilization.

c. ~~Research that cannot reasonably be expected to result in a viable commercial application or is or has been duplicated by other research efforts.~~

**History:** ~~Effective June 1, 1990.~~ Revised July 21, 2011.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-02

CHAPTER 95-02-02

EVALUATION AND FUNDING CRITERIA APPLICANT AND PROJECT ELIGIBILITY

Section

95-02-02-01

Evaluation and Funding Criteria Applicant and Project Eligibility

**95-02-02-01. Evaluation and funding criteria.** ~~Proposals will be evaluated upon a basis of one hundred possible points, according to the following criteria. Up to ten points may be awarded by the commission based on the likelihood of each proposal's success.~~ Applicant and Project Eligibility for all categories:

1. Probability and extent of new wealth creation. Preference will be given to applications which demonstrate a high probability of job and wealth creation. While the commission does not make any specific requirements for jobs created per dollar granted, a close review will be made of return-on-investment. Up to thirty points may be awarded on this criterion. Preference will be given to projects that:
  - a. Utilize North Dakota agricultural products in their production processes.
  - b. Produce food, feed, fuel, and fiber products through processes that are innovative and add to the value of agricultural products.
  - c. Are submitted by an existing or prospective company that will be actively engaged in utilizing and adding value to North Dakota agricultural products.
  - 1.d. Comply with the goals and intentions of one of the grant categories.
  
2. Credibility and merit. The commission will review each proposal as to its technical and commercial feasibility. Proposals which feature research that is innovative as well as commercially plausible will receive preference. A final criterion will focus on the relative competence and technical qualifications of project principals. Up to thirty points may be awarded on these criteria. Consideration will not be given to applications for:
  - a. Projects which do not clearly meet the commissioners' stated purpose.
  - b. Projects which are aimed solely at business expansion or creation without regard to enhanced agricultural products utilization.
  - c. Projects that cannot reasonably be expected to result in viable commercialization.
  - d. Projects that cause unwarranted duplication of efforts or processes.
  - e. Projects that focus on agricultural inputs, infrastructure, or productions methods that do not relate clearly to agricultural

product utilization, agricultural diversification, or nature-based tourism.

f. Projects from applicants who are not fulfilling, or have not fulfilled the requirements of prior agricultural products utilization grants.

~~2.~~

~~3. **Timeliness.** Preference will be given to proposals demonstrating a high probability of rapid commercialization. Up to fifteen points may be awarded on this criterion.~~

~~4. **Matching fund.** Priority will be given to projects which demonstrate a shared commitment for funding from other private or public sources, or from the applicant. Matching funds may be in the form of cash or in-kind services, or both. Approved indirect costs may qualify as matching funds. Disbursement of funds will be contingent upon evidence that matching funds have been allocated to the proposal. Up to ten points may be awarded on this criterion.~~

~~5. **Geographic consideration.** Preference will be given to the proposals which center efforts on nonurban locales. When the proposal requires specific research which cannot possibly be carried out in rural North Dakota, consideration will be given to the ultimate development and commercialization of the results of the proposal, with the same rural preference. Up to five points may be awarded on this criterion.~~

**History:** ~~Effective June 1, 1990. Revised July 21, 2011.~~

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-02

CHAPTER 95-02-03

PROCEDURE FOR GRANT REQUEST EVALUATION AND FUNDING CRITERIA

Section

95-02-03-01

Procedure for Grant Requests Evaluation and Funding Criteria

**95-02-03-01. Evaluation and funding criteria.** Unless otherwise specified, proposals will be evaluated upon a basis of one hundred (100) points, according to the following criteria: ~~Procedure for grant requests. Applications are limited to twenty typed, single-spaced or double-spaced eight and one-half inch by eleven inch pages, including the application form and any attachments. Fifteen copies of the proposal must be delivered or mailed to the commission. Using the commission's grant proposal form, applicants are required to include the following in their proposals:~~

1. **Probability and extent of new wealth and creation.** Preference will be given to applications which demonstrate a high probability of job and wealth creation. While the commission does not make any specific requirements for jobs created per dollar granted, a close review will be made of return-on-investment and job enhancement. Up to thirty (30) points may be awarded on this criterion. ~~Application cover sheet, including names and addresses of applicant organization, principal contact, project title, fund request, and total project budget.~~
  2. **Credibility and merit.** The commission will review each proposal as to its technical and commercial feasibility. Proposals which feature outcomes that are innovative as well as commercially plausible will receive preference. Within this criterion, the relative competence and technical qualifications of project principals will be assessed. Proposals or components of proposals which can be construed as subcontracts or contracts for service, and which provide information that the process by which contractors are selected has been competitive are more highly favored. Up to thirty (30) points may be awarded on these criteria. ~~Executive summary, limited to two pages, summarizing the essential elements of the proposal, including narrative and funding request.~~
  3. **Timeliness.** Preference will be given to proposals demonstrating a high probability of rapid commercialization and/or address an imminent need. Up to fifteen (15) points may be awarded on this criterion.
3. ~~Project narrative, including:~~
- a. ~~Description of the project or process which will result from the research.~~

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b. — Description of the planned commercialization efforts, including market research to date by the applicant or others and potential market for products or process to be developed.

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c. — Description of the research methodology to be employed including objectives, tasks, milestones, and research site, and a schedule of planned activities and timeframe for completion.

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d. — Summary of prior research done by the applicant or others and the development of the product or process to date.

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e. — Explanation of how the technology or innovation will benefit the applicant, the end-user of the project, or both.

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f. — Explanation of why this particular project is needed and how the project will further develop existing technologies.

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g. — Explanation of patents or regulatory approval granted or expected to be granted as a result of successful outcome of research.

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h. — Explanation of the estimated benefit of the project to one or more sectors of North Dakota agriculture, such as increased markets, new uses, or value added to agricultural products.

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i. — Explanation of the estimated benefit of the project in terms of job creations and economic development.

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j. — List of project cosponsors (including name of organization, address, telephone, key contact, and nature of participation). Letters of intent to participate must be attached.

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k. — List of principal investigators and other members of the research team, including their respective expertise and responsibilities under the project. Resumes, limited to two pages, must be attached.

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l. — Review of research.

4. Matching funds. Priority will be given to projects which demonstrate a shared commitment for funding from other private or public sources, and/or from the applicant. Matching funds may be in the form of cash or in-kind services, or both. Approved indirect costs may qualify as matching funds. Disbursement of funds will be contingent upon evidence that matching funds have been allocated to the proposal. Up to ten (10) points may be awarded on this criterion. List and describe other funding sources.

5. Geographic consideration. Preference will be given to the proposals which center efforts on non-urban locales. When the proposal requires specific research activities which cannot possibly be carried out in rural North Dakota, consideration will be given to the ultimate development and commercialization of the results of the proposal, with the same rural preference. Favorably community support will be considered. Up to five (5) points may be awarded on this criterion.

6. Project budget. Attach a detailed project budget including the following categories

a. Salaries, wages, and fringe benefits.

b. Equipment.

c. Materials and supplies.

d. Travel.

e. Publications costs.

f. Computer costs.

g. All other direct and indirect costs.

6. Likelihood of success. Commissioners provide their judgment on the probable success and relative importance of the proposed research. Up to ten (10) points may be awarded on the criterion.

6. Include breakdowns of the planned expenditures by funding source:

a. Agricultural products utilization commission funds request.

b. Private funds.

c. Federal funds.

d. Other matching funds, identified by individual source.



~~(Attach letters of commitment for matching funds to be provided contingent upon approval of this grant.)~~

~~Supplementary attachments will be counted within the twenty-page proposal limitation. Promotional materials or materials not directly related to the proposals are discouraged.~~

**History:** ~~Effective June 1, 1990.~~ Revised July 21, 2011.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-02

**CHAPTER 95-02-04**  
**SUPPLEMENTAL PROGRAM INFORMATION PROCEDURE FOR GRANT**  
**REQUESTS**

Section  
95-02-04-01

Supplemental Program Information Procedure for Grant Requests

**95-02-04-01. Supplemental program information Procedure for Grant Requests.**

1. Applications are limited to fifteen (15) (unless otherwise specified) typed, single spaced or double spaced eight and one-half inch by 11 inch pages, including the application form and any attachments or supplementary materials. One (1) signed original of the proposal must be delivered or mailed to the commission on/or before the published deadlines for consideration at the next Commission meeting. Funding level. Proposals are not limited to a specific dollar amount. However, the commission's grant moneys are finite. The commission reserves the right to increase or decrease the amount of requested funding based on its findings and on its level of available funds. Requests must be justified with respect to the scope of the research.
  
2. Prescribed formats must be used. Funding period. Up to one million dollars will be available for utilization and marketing research grants for the period ending June 30, 1991. Proposals may be submitted anytime within the biennium. Deadline dates for submission are: July first, October first, January first, and April first. Reviews and grants awards will be made on a quarterly basis. With respect to the funding criteria, multiyear research requests will be accepted and funded, subject to annual review and funding renewal.
  - a. The Commission will prepare application forms, instructions, and/or guidelines and make them available for downloading from the North Dakota Department of Commerce website. Hard copies of the grant applications are available at 1600 East Century Avenue, Suite 2, PO Box 2057, Bismarck, ND 58502-2057. Reasonable accommodations will be made to assist individuals with disabilities.
  - b. While the specific information requested for each category may vary, it may include:
    - i. Applicants name, telephone number, mailing address and e-mail address.
    - ii. Applicant advisor's name with similar contact information.
    - iii. Applicant's fiscal agent with similar contact information.
    - iv. Grant application amount.
    - v. Estimated total cost of project.
    - vi. Estimated time of completion of the project.
    - vii. Date of final report.

- viii. Brief description of the project and how grant funds will be used.
- ix. Where the business is (will be) located.
- x. Amount of applicant's personal or company matching funds.
- xi. Other matching funds with source and amount.
- xii. Assurance that matching funds have been secured, or date of availability.
- xiii. Whether the project has received public or private funding prior to this proposal, listing sources and amounts.
- xiv. Whether the individual has received previous funding from the Agricultural Products Utilization Commission, listing prior projects and amounts.
- xv. Type of business structure: sole proprietorship, corporation, partnership (listing names and contact information), cooperative (number of people) and date of structure formation.
- xvi. Federal tax identification number, if any.
- xvii. The business' primary financial institution.
- xviii. The business' gross sales for the last financial year.
- xix. The business' current number of employees.
- xx. Currency of the business' taxes.
- xxi. Three years projection on: Estimated gross sales, estimated capital expenses, estimated number of created jobs.
- xxii. If grant is provide professional services: the name of individuals preparing the business plan, the feasibility study, the accounting, and/or legal work.
- xxiii. Description of the product or potential outcome.
- xxiv. Description of the marketing plan and name(s) or the preparer(s).
- xxv. Description of the work, research, or investigation that has been done to date.
- xxvi. Description of intended market, potential customers, new use, etc.
- xxvii. Verification that individuals selected to do marketing have market management experience and expertise.
- xxviii. Prior marketing or advertising.
- xxix. Listing of the risks or concerns that need to be addressed to make the project a success.
- xxx. List of competitors.
- xxxi. Scope of work.
- xxxii. Research plan with objectives, milestones, and time-lines.
- xxxiii. Description of marketing areas, in state and out of state.

- xxxiv. Resumes of principal applicant and key participants.
- xxxv. Name and contact information of two references familiar with the applicants work relevant to the application.
- xxxvi. A complete project budget attached as a supplement.
- 2-xxxvii. Information suitable for a press release along with authorization.

- c. Applicants must complete the application form for the category most suitable for the project. Forms may be downloaded and adjusted to provide room for entries, but the sequence, style, and information requested on the form must be preserved.
- d. Information must be succinctly summarized, complete, and accurate to the best of the applicant's knowledge. Estimates should be indicated with the trailing (est.). Inappropriate questions should be marked with "N/A" for not applicable or "none" to indicate that question was considered.
- e. The commission reserves the right to deny any grant application, including those that fail to provide information on which commission judgments are made. Similarly, the commission reserves the rights to accept and consider applications that may vary form format but still provide requisite information.

3. Applicants are encouraged to employ services of a project advisor and are required to utilize a fiscal agent. ~~Multiple proposals. Multiple proposals from the same applicant will be considered if each proposal covers distinctly different research projects. Proposals which have been submitted under other state grant programs may be considered simultaneously by the commission.~~

~~Proposals which contain matching funds from other grant programs must demonstrate contingent approval from appropriate sources prior to release of funds by the commission.~~

4. The application must be signed by the applicant or by the representative of a company or agency with authority to approve submission of the proposal and the fiscal agent. If utilized, the project advisor must sign the proposal indicating they have offered critical review of the proposal. The applicant's signature is a certification that the submission is complete and that the information is accurate, and that the proposal represents the true intent of the project. Misrepresentations may qualify applicants from any further Agricultural Products Utilization Commission funding. Evaluation process. ~~Initial screening for completeness and eligibility of all proposals will be completed upon receipt by the commission staff. Should revisions or corrections be deemed necessary, the applicant may withdraw and resubmit without penalty or delay.~~

Each proposal will be considered individually, and according to the stated criteria, by the entire commission. A decision to accept, modify, or deny each will then be made, by majority vote of at least a quorum of the commission.

Should the process produce a funding level less than the amount requested in the proposal, the commission staff will confer with the applicant to determine whether the amount recommended would alter the project's feasibility.

By law, no member of the commission may participate in, or vote on, a decision of the commission relating to an organization in which that individual has a direct personal financial interest.

5. Promotional materials or materials not directly related to the proposal are discouraged. **Grant administration and reporting.**—Successful applicants shall adhere to the conditions outlined in this article and North Dakota law. Following approval of the grant award, a formal grant contract will be executed between the agricultural products utilization commission and the grantee. This agreement will specify the agreed upon objectives, tasks to be performed, time line and budget, fund release schedule, and any other conditions specific to the individual proposal.

Under the terms of all grant contracts, the grantee will be required to submit to the commission periodic interim reports outlining progress and both time line and budget compliance. In most cases, the entire grant amount will not be released at the time of the commission's decision. In such instances, funds release will be tied to the grant contract, and any insufficiencies with the contract may result in withholding of further funding.

Grantees will be required to submit a final written report describing the work performed and the results obtained, prior to final release of grant funds. This report must be supplemented by a financial report of all expenses actually incurred and income generated by the project.

6. Applicants are required to complete a press-release information and authorization sheet that summarizes the important aspects of the projects. This release should not contain confidential or proprietary information. **Audit.**—To protect the investment of the commission and of the people of North Dakota, all financial documents, books, receipts, orders, expenditures, electronic data and accounting procedures, and practices of the grantee are subject to examination by or for the commission at any time for three years following the completion of the project.

7. Applicants will also be encouraged to provide information that collects demographic information that can be used to monitor compliance with applicable Federal Civil Rights laws. ~~Eligible uses of funds. Agricultural products utilization commission grant funds may be used to pay salaries, buy supplies, and cover day-to-day expenses of the project.~~

~~**Confidentiality.** To the extent allowed under North Dakota law, the commission may limit the dissemination of information concerning a proposal, but in any event, does not assume any liability for inadvertent disclosure.~~

~~**Ownership.** Subject to the policies, if any, of participating public programs and entities, rights to use products, processes, or services developed under this grant program will remain with the grantee.~~

~~Subject to the same policies, the ownership and all rights to project outcomes may revert to the commission if the grantee or assignee fails to market the products, process, or service in accordance with individually negotiated funding contracts. In such cases, the commission may provide notice and the opportunity to others to assume control of research projects. In these cases, priority will be given to any licensee under such property or others who benefit North Dakota commercially, with first priority given to small firms in nonurban areas of the state.~~

~~**Royalty agreements.** In certain cases, the commission may receive royalties on the sale or lease of any product, process, or service developed under a commission grant. Royalty agreements will be negotiated at the time of the grant award and will be structured so that the commission may recover at least a portion of its investment of public funds. Repaid funds will be used to make new investments in other agricultural products utilization research projects.~~

**History:** ~~Effective June 1, 1990.~~ Revised July 21, 2011.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-02

**ARTICLE 95-02-05**  
**SUPPLEMENTAL PROGRAM INFORMATION**

Section

95-02-05-01 Supplemental Program Information

95-02-05-01. Supplemental Program Information

- 1. Funding level.**

  - a. Unless otherwise designated, proposals are not limited to a specific dollar amount. The commission reserves the right to increase or decrease the amount of requested funding based on its findings and on its level of available funds. The Commission also reserves the right to fund in whole or in part specific portions of eligible proposals. Requests must be justified with respect to the scope of the project.
  - b. Except when restricted by legislative directive, or by available funding in Commission-administered ancillary programs, the Commission may allocate funds to projects in any of the categories.
  - c. The Commission may elect to limit total funding during any particular quarter, and may disperse available funding over the quarters of a biennium in order to provide opportunities for meritorious projects that may be submitted later in the biennium.
  
- 2. Due Date.**

  - a. Proposals may be submitted anytime within the biennium. Deadline dates for submission are: January first (1<sup>st</sup>), April first (1<sup>st</sup>), July first (1<sup>st</sup>), and October first (1<sup>st</sup>). Prototype and Technical Assistance grant deadlines are December first (1<sup>st</sup>), March first (1<sup>st</sup>), June first (1<sup>st</sup>), and September first (1<sup>st</sup>). Only fifteen (15) proposals will be considered at each commission meeting based on the date received. Eligible proposals received after the quota has been met will be deferred until the next commission meeting.
  - b. Reviews and grant awards will be made on a quarterly basis.
  - c. Generally, grants are limited to a one-year time frame.
  
- 3. Multiple, Concurrent and Successive Proposals.**

  - a. Generally, applicants are only allowed to apply for one grant at a time. Multiple proposals from the same applicant will be considered if each proposal covers distinctly different projects.
  - b. Proposals which have been submitted under other state, federal or private grant programs may be considered concurrently by the commission. Proposals which contain matching funds from other grant programs must demonstrate contingent approval from appropriate sources prior to release of funds by the commission. Similarly, Agricultural Products Utilization

Commission grants that are used as match for other grants may be held with contingent approval, until the other grants have been approved.

- c. Upon completion of a grant, applicants may apply for a successive grant if the subsequent grant demonstrates an important next step; however, the Commission reserves the rights to limit and/or deny the number and/or amount of funding of successive grants without cause.

**4. Commission Review.**

- a. Acting on behalf of the commission, the staff reviews submitted proposals. Incomplete, ineligible, or inappropriate grants may be rejected by the staff, or returned for amendment.
- b. Eligible proposals are distributed to Commission members for review prior to Commission meetings. As part of the review process, commissioners and/or staff may contact references, experts, government agencies, and other sources to help ascertain feasibility of the project and credibility of the applicant(s).
- c. Each proposal will be considered individually on its own merits, and according to the stated criteria, by the entire commission. Applicants will be invited to present their proposal, discuss relevant points, and clarify components at a commission meeting; however, the predominant consideration will be based on the written proposal. Generally, presentations will be limited to thirty (30) minutes divided into presentation and questioning periods as determined by the commission chair.
- d. A decision to accept, modify, or deny each project will then be made, by majority vote of at least a quorum of the commission. Should the process produce a funding level less than the amount requested in the proposal, the commission staff will confer with the applicant to determine whether the amount recommended would be acceptable to further the goals of the project.
- e. The decision of the commission is final, binding, and not subject to review or appeal except as allowed by law. Projects that have been denied funding cannot be resubmitted in their original form. Revised projects may be considered as new submissions.
- f. By law, no member of the commission may participate in, or vote on, a decision of the commission relating to a project and/or a business which would constitute a conflict of interest.

**5. Grant administration and reporting.**

- a. Applicants will be notified of the commission's decision. The commission is under no obligation to provide rationale for its decision; however, the applicant may request an advisory report that could point out some of the considerations in the decision.
- b. Successful applicants shall adhere to the conditions outlines in this article and North Dakota law. Following approval of the grant award, a formal grant contract will between the Agricultural products Utilization Commission and the grantee. This agreement will specify the agreed



upon objectives, tasks to be performed, time line and budget, fund release schedule and any other conditions specific to the individual proposal. Under the terms of all grant contracts, the grantee will be required to submit to the commission periodic interim reports outlining progress and both time line and budget compliance.

- c. In most cases, the entire grant amount will not be released at the time of the commission's decision. In such instances, funds release will be tied to the grant contract, and any insufficiencies with the contract may result in withholding of further funding.
- d. Grantees will be required to submit a final written report describing the work performed and the results obtained, prior to final release of grant funds. This report must be supplemented by a financial report of all expenses actually incurred and income generated by the project.

**6. Audit and Defaults.**

- a. As a state agency, the commission is subject to audits through established procedures.
- b. To protect the investment of the commission and of the people of North Dakota, all financial documents, books, receipts, orders, expenditures, electronic data and accounting procedures, and practices of the grantee are subject to examination by or for the commission at any time for three years following the completion of the project.
- c. When a grant is in default because of inadequate reporting, inappropriate use of grant funds, or non-use of funds, any monies that have not yet been released will be withheld. Should such grave insufficiencies exist that the project appears to the commission in jeopardy, the contract may be cancelled, and all funds previously released may be recovered through collection procedures.
- d. Funds retrieved from vacated and incomplete projects will be returned for redistribution as grants. If the grant originated from special funding, the return and redistribution will be within that funding source.

**7. Eligible use of funds.**

- a. Eligible uses of funds are detailed in each of the category descriptions and as part of the application form.
- b. In general, Agricultural Products Utilization Commission grant funds are for enhancements, improvements, and new ventures and should not be used to defray the normal operating costs of the individual or business including salaries of individuals in the business.
- c. Projects that bring producers, processors, distributors, buyers, and/or other individuals important in a supply chain together in a forum that fosters contacts and information exchange supportive of marketing ventures.

**8. Confidentiality and Disclosure.**

- a. Generally, proposals, grant awards, reports, and proceedings are open records and may be disclosed as allowed under North Dakota law.
- b. An applicant may request confidentiality of all portions of a proposal to protect his or her intellectual property rights. Such proposals or sections of proposals must be clearly marked as "Proprietary". The commission may limit the dissemination of information regarding confidential proposals, including considering the proposal during an executive session, however the commission is not, in any event, liable for inadvertent disclosure.
- c. By accepting an Agricultural Products Utilization Commission grant, awardees agree to serve as a contact for individuals interested in pursuing a similar project.
- d. Under the term of all grant contracts, the grantee may be required to submit the commission periodic interim reports outlining progress and both timeline and budget compliance. In most cases, the entire grant amount will not be released at the time of the commission's decision. In such instances, the release of funds will be tied to the grant contract and any insufficiencies with the contract may result in withholding of further funding. Grantees will be required to submit a final written report describing work performed and the results obtained, prior to final release of grant funds. The report must be supplemented by a financial report of all expenses actually incurred and income generated by the project.

**9. Ownership.**

- a. Subject to the policies, if any, of participating public programs and entities rights to use products, processes, or services developed under this grant program will remain with the grantee.
- b. Subject to the same policies, the ownership and all rights to project outcomes may revert to the commission if the grantee or assignee fails to market the product, process, or service in accordance with individually negotiated funding contracts. In such cases, the commission may provide notice and the opportunity to others to assume control of research projects. In these cases, priority will be given to any license under such property or others who benefit North Dakota commercially, with first priority being given to small firms in nonurban areas of the state.

**10. Royalty agreements.**

The commission may receive royalties on the sale or lease of any product, process, or service developed under a commission grant. Royalty agreements will be negotiated at the time of the grant award and will be structured so that the commission may recover at least a portion of investment of public funds. Repaid funds will be used to make new investments in other agricultural utilization projects.

**History:** Revised July 21, 2011

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-02

**ARTICLE 95-03**

**COOPERATIVE MARKETING GRANT PROGRAM**

Chapter

~~95-03-01 — Cooperative Marketing Grant~~

**CHAPTER 95-03-01**

**COOPERATIVE MARKETING GRANT**

Section

~~95-03-01-01 Purpose~~

~~95-03-01-02 Criteria~~

~~95-03-01-03 Miscellaneous~~

~~95-03-01-01. Purpose. Cooperative marketing grants may be used by a group of individuals or an individual on behalf of a group to market a product or formulate or implement a marketing plan for products which have not been marketed through existing marketing cooperatives.~~

~~History: Effective May 1, 1992.~~

~~General Authority: NDCC 4-14.1-03.1~~

~~Law Implemented: NDCC 4-14.1-03.1~~

~~95-03-01-02. Criteria. In addition to the requirements of article 95-02, proposals for a cooperative marketing grant will be evaluated as follows:~~

- ~~1. Preference will be given to principals who are individuals rather than existing corporations.~~
- ~~2. Proof of a cooperative agreement, either formal or informal, must be provided to the commission.~~
- ~~3. Proposals should provide an outlet for products normally not marketed through existing marketing cooperatives.~~
- ~~4. A well researched, feasible marketing plan for the specific crop, livestock, or on farm, value added processing must be included in the proposal.~~

~~5. In lieu of the requirements of chapter 95-02-03, applicants must submit proposals on forms prescribed by the commission.~~

~~History: Effective May 1, 1992.~~

~~General Authority: NDCC 4-14.1-03.1~~

~~Law Implemented: NDCC 4-14.1-03.1~~

~~**95-03-01-03. Miscellaneous.**~~

~~1. Applicants are encouraged to seek professional assistance in plan preparation. No more than ten percent of the total grant may be spent for professional services.~~

~~2. Plans will be considered on an individual basis and on their own merits.~~

~~History: Effective May 1, 1992.~~

~~General Authority: NDCC 4-14.1-03.1~~

~~Law Implemented: NDCC 4-14.1-03.1~~

~~ARTICLE 95-04~~

~~FARM DIVERSIFICATION GRANT PROGRAM~~

~~Chapter 95-04-01—Farm Diversification Grants~~

~~CHAPTER 95-04-01  
FARM DIVERSIFICATION GRANTS~~

~~Section~~

~~95-04-01-01 Purpose~~

~~95-04-01-02 Criteria~~

~~95-04-01-03 Disbursements~~

~~95-04-01-04 Miscellaneous~~

~~95-04-01-01. Purpose. Farm diversification grants must be used for the diversification of a family farm to nontraditional crops or livestock or on-farm, value-added processing. Traditional crops and livestock are those for which statistics are kept by the North Dakota agricultural statistic service.~~

~~History: Effective May 1, 1992.~~

~~General Authority: NDCC 4-14.1-03.1~~

~~Law Implemented: NDCC 4-14.1-03.1~~

~~95-04-01-02. Criteria. In addition to the requirements of article 95-02, proposals for a farm diversification grant will be evaluated as follows:~~

~~1. Proposals will usually be judged on traditional and nontraditional grant request guidelines, but the proposal does not necessarily need to be a new crop, stock, or value-added processing venture.~~

~~2. Proposals must have the potential to create additional income for the farm unit.~~

~~3. Proposals must demonstrate a well-researched plan. This includes exploration and research of possible markets for the product and possible income.~~

~~4. Proposals must contain new and innovative plans for marketing the product.~~

~~5. In lieu of the requirements of chapter 95-02-03, applicants must submit proposals on forms prescribed by the commission.~~

**History:** Effective May 1, 1992.  
**General Authority:** NDCC 4-14.1-03.1  
**Law Implemented:** NDCC 4-14.1-03.1

**95-04-01-03. Disbursements.**

1. Upon approval of the proposal, applicants will immediately receive one-third of the total grant amount to use for further investigation into the financial feasibility of the proposed project.
2. An additional one-third of the total grant amount will be disbursed upon approval by the commission of an interim report detailing the operating plan. Requirements for the operating plan are as follows:
  - a. An itemized list of physical quantities and prices of inputs for each of the direct costs in the operating plan.
  - b. An itemized list of projected building, machinery and equipment, and land required and the estimated cost of each component.
  - c. An estimate of marketing costs.
3. Upon submission of a final written report describing the work performed, the results obtained, and an itemized list of quantities purchased and owner-supplied materials, a final release of the grant funds will be issued. The final report must be supplemented by a financial report detailing all expenses actually incurred and income generated by the project.

**History:** Effective May 1, 1992.  
**General Authority:** NDCC 4-14.1-03.1  
**Law Implemented:** NDCC 4-14.1-03.1

**95-04-01-04. Miscellaneous**

1. Applicants are encouraged to seek professional assistance in project preparation. No more than ten percent of the total grant may be spent for professional services.
2. Plans will be considered on an individual basis and on their own merits.
3. Generally, grants will not exceed five thousand dollars per application.

**History:** Effective May 1, 1992.  
**General Authority:** NDCC 4-14.1-03.1  
**Law Implemented:** NDCC 4-14.1-03.1



**ARTICLE 95-05**

**AGRICULTURAL PROTOTYPE DEVELOPMENT PROGRAM**

Chapter

~~95-05-01—Agricultural Prototype Development Grant~~

**CHAPTER 95-05-01**

**AGRICULTURAL PROTOTYPE DEVELOPMENT GRANT**

Section

~~95-05-01-01 Purpose~~

~~95-05-01-02 Definition of Prototype~~

~~95-05-01-03 Projects Eligible for Funding~~

~~95-05-01-04 Application Process~~

~~95-05-01-05 Application Form~~

~~95-05-01-06 Review Process~~

~~95-05-01-07 Evaluation Criteria~~

~~95-05-01-08 Supplemental Program Information~~

~~95-05-01-01. Purpose. Agricultural prototype development grants may be used by existing businesses, startup businesses, and individual and academic or business partnerships to develop agricultural prototypes that have the potential to be commercialized and developed in North Dakota.~~

~~History: Effective November 1, 1998.~~

~~General Authority: NDCC 28-32-02~~

~~Law Implemented: NDCC 4-14.1-03.1~~

~~95-05-01-02. Definition of prototype. The prototypes for which funding may be acquired include:~~

~~1. Food processing equipment.~~

~~2. Agricultural equipment.~~

~~History: Effective November 1, 1998.~~

~~General Authority: NDCC 28-32-02~~

~~Law Implemented: NDCC 4-14.1-03.1~~

~~95-05-01-03. Projects eligible for funding. Projects must be for applied research rather than basic research.~~

~~1. The processes for prototype development which are eligible for funding include:~~

~~a. Product design.~~

~~b. Manufacturing the prototype.~~

~~c. Prototype testing, including test marketing.~~

~~d. Patenting.~~

~~e. Prototype evaluation or redesign or determination of the need to develop a different prototype.~~

~~f. Marketing assessment to refine the prototype.~~

~~2. Allowable costs for the project do not include capital investments, operating costs, or inventory costs. Allowable costs for the project are limited to:~~

~~a. Consulting and technical assistance costs.~~

~~b. Research and development of prototype.~~

~~c. Pre-approved outside consulting fees.~~

~~d. University technical assistance.~~

~~e. Matching small business innovation research grants, energy related invention program grants, and other federal, state, or local funding sources.~~

~~f. Other pre-approved research and development costs.~~

~~History: Effective November 1, 1998.~~

~~General Authority: NDCC 28-32-02~~

~~Law Implemented: NDCC 4-14.1-03.1~~

~~**95-05-01-04. Application process. Applications will be considered on a quarterly basis with the following application deadlines: March first, June first, September first, and December first.**~~

~~History: Effective November 1, 1998.~~

~~General Authority: NDCC 28-32-02~~

~~Law Implemented: NDCC 4-14.1-03.1~~

**95-05-01-05. Application form.** Applications should be limited to twenty typed, single-spaced or double-spaced eight and one-half by eleven inch pages, including the application form and any supplementary attachments. In addition to the application form, applicants are required to include the following in their proposals:

1. An executive summary, limited to two pages, summarizing the essential elements of the proposal, funding request, and purpose of intended use of funds.

2. A project narrative, including:

a. Description of the product or technology that will result from the research;

b. Description of the planned commercialization efforts, including market research to date by the applicant or others and potential market for the product or technology to be developed;

c. Description of the research methodology to be employed, including objectives, tasks, milestones, and the research site. Proposals must include a schedule of planned activities and a timeframe for completion;

d. Summary of prior research done by the applicant or others and the development of the product or technology to date;

e. Explanation of how the product or technology will benefit the applicant or end user of the product;

f. Explanation of why this particular project is needed and how the project will further develop existing technologies;

g. Explanation of patents or regulatory approval granted or expected to be granted as a result of successful outcome of research;

h. Explanation of the estimated benefit of the project to the agricultural sector of North Dakota's economy;

i. Explanation of the estimated benefit of the project in terms of job and wealth creation for North Dakota;

j. — A list of the project cosponsors, including the name of the organization, address, telephone number, key contact, and nature of participation, and attached letters of intent to participate; and

k. — A list of principal investigators and other members of the research team, including their respective expertise and responsibilities under the project. Attached resumes must be limited to two pages each.

3. — A list and explanation of other funding sources on a form provided by the agricultural products utilization commission;

4. — A detailed project budget including the following categories:

a. — Salaries and fringe benefits.

b. — Equipment and supplies.

c. — Travel.

d. — Printing.

e. — Computer lease or rental.

f. — Consultant fees.

g. — Other direct costs.

5. — A breakdown of planned expenditures by funding source including:

a. — Agricultural products utilization commission funds.

b. — Other state funds.

c. — Private funds.

d. — Federal funds.

e. — Other matching funds, identified by individual source.

A breakdown must indicate whether funds to be provided contingent upon approval of an application.

**History:** Effective November 1, 1998.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-03.1

**95-05-01-06. Review Process. Proposals are subject to the following review process:**

1. Upon receipt, the proposals are prescreened for eligibility based on the applicant's stated intent, compliance with these guidelines, the proposed budget, and uses of funds.
2. Independent peer reviewers may be used to evaluate the technical merits of the project.
3. The applicant may be required to make a presentation to a review committee.
4. The commission will meet to allow applicants an opportunity to present their proposal and answer commission members' questions. Presentation question and answer periods will be limited to thirty minutes. The meetings will be held approximately one month following the completion of the peer review.
5. The board members shall make funding decisions.

**History:** Effective November 1, 1998.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-03.1

**95-05-01-07. Evaluation criteria. Criteria for evaluating proposals are as follows:**

1. The concept is new technology or a new application of existing technology with a reasonable assurance that the concept will work;
2. Significant market research has been conducted by the applicant or others, and there is a reasonable assurance of a potential market;
3. The applicant has demonstrated the ability to manage the business of fully commercializing the idea;
4. There is a favorable community support for the project;
5. there are favorable recommendations from local economic development specialists, university-based technical specialists, or other qualified service providers;
6. There are favorable collateral contacts to determine the applicant's qualifications and background;

7. The applicant demonstrates a personal commitment and a commercialization development plan; and

8. There is an adequate and realistic budget projection for complete prototype development.

**History:** Effective November 1, 1998.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-03.1

**95-05-01-08. Supplemental program information.**

1. Funding is typically limited to a maximum of twenty-five thousand dollars per project. Funding must be matched dollar for dollar, and some of the match dollars must be provided by the applicant or local entities, or both.

2. Once a proposal is approved, the executive director of the agricultural products utilization commission, with direction from the commission members, will negotiate terms for an agreement, which must specify expected results of the funding and the timeline for completion of the project. Progress of each project must be monitored.

3. If the project is commercialized in a state other than North Dakota, royalty payments must be collected from the grantee. The royalty payments must be calculated based on a percentage of gross sales and must commence at the time of commercialization.

4. Proposals by out-of-state firms may be considered in the sponsoring company establishes a firm commitment to develop a North Dakota operation upon receipt of the funding.

**History:** Effective November 1, 1998.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-03.1