

Memorandum

TO: Greg McKay
FR: Scott McKenna
DT: 25 November 2014
RE: R131-14 (Off-Highway Vehicle Grants)

Hello Greg. I am sending this memo to accompany the draft of the off-highway vehicles regulation (R131-14). The essential point of this memo is to explain a few deviations from the letter of the request, and why our Legislative Counsel felt they were necessary. I will now proceed to number and explain the principal changes.

[1] Although the request contemplated that governmental entities would be able to apply for grants, we could not include that in the regulation without violating NRS. As per NRS 490.068(2)(a), “persons” are allowed to apply for grants and, per NRS 0.039, the term “person” does not include governmental entities.

[2] Although the request refers, in numerous places, to a “grant guide,” we cannot refer to an external document whose contents operate as rules of general applicability without violating the requirements of NRS chapter 233B. However, we believe we can give you the same effect as a grant guide, but without violating NRS chapter 233B, by providing for a “request for grant applications.” You will see in item [4] how we believe we have addressed this matter to your satisfaction.

[3] Although the request proposed to show a “form contract” between a grantee and the Commission, our Legislative Counsel felt that setting out such a contract in such detail (in regulation) could sometimes thwart the Commission’s goals, as the Commission may sometimes find that a different form for the contract may better suit an individual situation. Further, any desired “form contract” can be included in the “request for grant applications” on a case-by-case basis.

[4] The main way we have approached the regulation request (see particularly §§ 18 & 30) is to try to give the Commission as much leeway as possible to do what it needs to do. Thus, in this regard, we have essentially set up a system where, each time the Commission issues a “request for grant applications,” that request can be customized by the Commission to ensure that the needs of an individual project are met.

I would like to also emphasize, Greg, that this regulation is a draft for the consideration of the Commission. We have worked hard for a long time to try to produce for you a regulation that will truly work. If you feel that there are elements in the regulation that are troublesome, please let us know what they are and why they are problematic, and then we can work together to resolve these issues.

Best Regards,

Scott