

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____



Michael Preston
Secretary of Commerce,
Executive Director
Arkansas Economic Development Commission

Rule Summary

Military Affairs Grant Program

Purpose

AEDC is seeking to promulgate an amended rule for the Arkansas Economic Development Commission's existing Military Affairs Grant Program Rule. The proposed rule will conform the existing rule to Act 522 of 2021.

Background

Act 522 of 2021 codified AEDC's existing Military Affairs Grant Program in the Arkansas Military Affairs Council Act at §15-4-3908. The existing rule defines the process by which AEDC administers the discretionary grant program. The program grants funding to eligible applicants for programs and projects that strengthen and sustain military installations in Arkansas. The rule outlines the application and approval process, disbursement of grant funds, and reporting requirements by a grantee.

Key Points

The amended proposed rule makes definition changes, inserts new code citations, and makes other technical corrections to conform the existing rule to Act 522 of 2021.

Military Affairs Grant Program **Mark up**

Rules

I. Introduction

Overview

Act 522 of 2021 created the Arkansas Military Affairs Council Act. The Act codified the existing Military Affairs Grant Program administered by the Arkansas Economic Development Commission. As a key component of Governor Asa Hutchinson's 2015 Military Affairs Initiative, to grow, support, and promote the state's military missions, installations and related economic development interests, inaugural funding was appropriated to the Arkansas Economic Development Commission (AEDC) in 2016 to establish the Military Affairs Grant Program (MAGP).

Funds allocated to the MAGP may be granted, at the discretion of the AEDC Executive Director (~~Executive Director~~), to applicants meeting eligibility requirements for projects and programs that strengthen and sustain military installations in Arkansas, resulting in economic growth in host communities, surrounding regions, and the State of Arkansas. As such, grants are intended to leverage, not supplant, other funding sources.

~~Pursuant to authority granted under § 15-4-209(a)(1) and § 15-4-209(b)(5), AEDC has established these rules governing administration of the MAGP.~~

Program Rule Summary

1. AEDC will periodically solicit MAGP applications as funding becomes available.
2. Eligible applicants shall submit completed applications, on forms prescribed by AEDC and in accordance with submittal deadlines, to request grant funding from the MAGP.
3. The AEDC Military Affairs Director (~~Director~~), with advice from the Governor's Military Affairs ~~Steering Committee~~ Council (Committee), shall review and recommend applications for grant funding to the Executive Director.
4. Applicants receiving approval from the Executive Director shall execute grant agreements with AEDC specifying grant terms and conditions.
5. Grant funding shall be made available to grantees on a cost incurred basis, subsequent to submittal of requests for payment on forms prescribed by AEDC.
6. Grantees shall submit quarterly progress reports throughout the duration of the grant project in accordance with grant terms and conditions.
7. A contingency of up to ten percent (10%) of the grant award may be withheld from final payment until all closeout documents have been submitted and have been approved by AEDC.

Contact Information

For more information, please contact:
Arkansas Economic Development Commission
Military Affairs Director
One Commerce Way 900 West Capitol
Little Rock, AR 722042
(501)682-51961121

~~II.~~ **Rulemaking Authority**

~~The AEDC has authority, at § 15-4-209(b)(5), to promulgate rules necessary to administer the MAGP.~~

~~III.~~**II. Definitions**

1. “AEDC” means the Arkansas Economic Development Commission;
2. “City” means any city of the first class, city of the second class, or any incorporated town in this state;
3. ~~“Committee Council” means the Governor’s appointed Arkansas Military Affairs Steering Committee Council appointed by the Governor pursuant to 15-4-3904;~~
4. “County” means any county in this state;
- ~~4.5.~~ “Director” shall mean the Military Affairs Director of the Military Affairs Division of AEDC.
- ~~5.6.~~ “Economic development organization” means an a-business entity: organization registered in good standing with the Secretary of State’s Office whose major objectives are to promote community and economic development in a geographic area within the State of Arkansas;
 - A. In good standing with the Secretary of State; and
 - A.B. Formed to promote community and economic development in a geographic area in Arkansas.
- ~~6.7.~~ “Eligible applicant” means a:
 - A. City;
 - B. County;
 - C. Economic development organization;
 - D. Military Community Council;
 - E. Military installation; and

F. State agency;

~~F.8.~~ “Executive Director” shall mean the Executive Director of AEDC.

~~7.9.~~ “Ineligible costs” means:

- A. Obligations incurred prior to the eligibility date for incurring project costs as specified in the grant agreement;
- B. Expenditures for routine repair, maintenance, and operation;
- C. Expenditures that are unsupported by documentation;
- D. Project administration costs, including salaries and benefits for grantee personnel, in excess of ten percent (10%) of the grant award;
- E. Lobbying expenditures;
- F. Purchases of alcohol;
- G. Entertainment expenses, including meals and activity fees;
- H. Travel not directly related to the project; and
- I. Purchases of material and services that result in benefits accruing to areas outside the State of Arkansas;

~~8.10.~~ “MAGP” means the Military Affairs Grant Program as administered by the Military Affairs Division of AEDC~~Arkansas Economic Development Commission~~;

~~9.11.~~ “Military Community Council” means a business entity; ~~an organization registered in good standing with the Arkansas Secretary of State’s Office whose major objectives are to promote cooperation between military and civilian components of its designated geographic area by providing required infrastructure, safe and secure communities, support services, and a high quality of life through the adoption and implementation of matters of joint interest. Proof of documentation of Military Community Councils shall consist of:~~

- A. ~~Proof of legal organization as a business entity in~~ In good standing with the Arkansas Secretary of State’s Office;
- B. ~~A copy of the council’s current bylaws or governing documents approved by the council’s governing board~~ Formed to promote cooperation between military and civilian components of a designated geographic area within Arkansas through the adoption and implementation of matters of joint interest to a military installation and the surrounding community by establishing and maintaining:
 - (i) Necessary infrastructure;
 - (ii) Safe and secure communities; and
 - (iii) Support services.
- C. ~~A map of the geographic region covered by the council;~~
- D. ~~The identity of each public organization and private organization comprising the council and the role each organization will undertake in the project; and~~
- E. ~~A list of the current members of the council’s board of directors;~~

~~10.12.~~ “Military installation” means:

- A. Facilities located in Arkansas under the jurisdiction of the United States Department of Defense or the Arkansas ~~State Military Department~~ of the Military, including a:
 - (i) Base;
 - (ii) Camp;
 - (iii) Post;
 - (iv) Station;
 - (v) Yard;
 - (vi) Center; and
 - (vii) Homeport facility for any ship.
- B. "Military installation" does not include any facility used primarily for:
 - (i) National guard armories;
 - (ii) Civil works;
 - (iii) Rivers and harbors projects; and
 - (iv) Flood control projects.

IV.III. Eligibility

Applicants

To be eligible to receive MAGP funding, an applicant shall:

1. Meet program objectives stated in these rules;
2. Meet the definition of "eligible applicant";
3. For projects within the legal boundaries of military installations, provide written support for the project by the commander of the military installation to which benefits will accrue; and
4. Submit a completed application, ~~under forms and guidelines provided by AEDC to the Director~~ on the forms developed for such purpose by the Military Affairs Division, including any required attachments and supplemental information specified on the forms.

Eligible Costs

~~The~~ AEDC will review all expenditure requests prior to payment to ensure that costs are consistent with the terms and conditions of the grant agreement and are not "ineligible costs" as defined by these rules. ~~The AEDC reserves the right to~~ will disallow all ineligible costs ~~and. It is the intention of AEDC to~~ will only fund ~~only~~ expenditures directly related to projects.

V.IV. Application Process, Review, and Approval

Application Process Submittal

The AEDC will periodically solicit MAGP applications as funding becomes available. To request funds under the MAGP, eligible applicants shall, utilizing forms prescribed by AEDC, submit a completed, signed application with all supporting documentation to the Director by the specified submittal due date. Applications shall include:

1. A project title;
2. Applicant contact information;
3. Organizational information;
4. Sources of all funds, including prior MAGP awards, for this project;
5. Previous MAGP awards not included in item #4 above;
6. Proposal information;
7. The amount of funding requested; and
8. Start and completion dates of the project.

Application Review and Approval

No grant offer shall be made by the Executive Director to an applicant until the applicant has completed the following review and approval process.

1. The Director shall conduct a preliminary review of each application to confirm that it:
 - A. Was received on or before the due date specified in the application solicitation;
 - B. Was submitted by an eligible applicant;
 - C. Meets the objectives of the program;
 - D. Identifies clearly defined, measurable outcomes;
 - E. Includes a letter of support from the installation commander if the project is located within the legal boundaries of the military installation; and
 - F. Is complete, including all required appendices and attachments.
2. All applications meeting preliminary review requirements, as determined by the Director, will be forwarded to the Military Affairs Committee Council at least fifteen (15) days prior to the next scheduled Committee meeting.
3. The Committee Council shall: review each application and make funding recommendations to the Executive Director.
 - ~~A. Review each application in accordance with the MAGP Funding Recommendation Worksheet; and~~
 - ~~B. Forward completed MAGP Funding Recommendation Worksheets to the Director.~~
- ~~4. The Director shall review each application in accordance with AEDC scoring criteria and funding recommendations provided by the Committee.~~
- ~~5. Upon completion of reviews, the Director will provide funding recommendations to the Executive Director.~~

- ~~6.4.~~ The Executive Director, after reviewing the ~~Director's Council's~~ recommendations, will specify which applicants may receive grants.
- A. Unsuccessful applicants will be notified in writing by the Director.
 - B. Approved applicants will be required to execute a grant agreement with AEDC outlining the amount, terms, and conditions of the grant.

~~VI.~~V. Grant Agreements

1. All MAGP grants shall be awarded at the discretion of the Executive Director. Grant agreements shall specify:
 - A. The eligibility date for incurring ~~project costs~~ for the project or program;
 - B. Projected completion ~~The date of by which the portion of the project or program funded by the grant grantee shall complete the MAGP-funded portion of the project;~~
 - C. Terms and conditions of the grant agreement;
 - D. The amount of approved costs, ~~determined through negotiations with the Director and applicant;~~ and
 - E. The process by which grant funds shall be disbursed to the grantee.
2. The amount of the grant shall be discretionary and may be for amounts less than requested, subject to funding availability, and Executive Director's discretion.
3. Grants may be funded from any source of funds appropriated and allocated to the MAGP.
4. Grants will be executed according to the following process:
 - A. Two original copies of the grant agreement will be prepared by the Director and forwarded to the grantee for signature and return.
 - B. Upon receipt of the signed grant agreements from the grantee, the Director will prepare an approval letter and forward the grant agreement and the approval letter to the Executive Director for signature.
 - C. One original copy of the grant agreement will be forwarded to the grantee with the approval letter.

~~VII.~~VI. Grant Disbursement

1. Expenditures incurred before the eligibility date for incurring projects costs specified in the grant agreement are ineligible.
2. A contingency of up to ten percent (10%) of the grant award may be withheld from final payment until all closeout documents have been submitted and have been approved by AEDC.

~~VIII.~~VII. Reporting

Grantees shall submit quarterly progress reports throughout the duration of the grant agreement in accordance with terms specified in the grant agreement. Failure to submit reports in a timely manner may delay disbursement of grant funds.

~~The Director shall submit quarterly reports to the Council for discussion~~ Quarterly reports shall be made available for discussion by the Committee and Director at Council meetings.

VIII. Rulemaking Authority

AEDC has authority, at §15-4-3910, to promulgate rules necessary to administer the Military Affairs Grant Program

Notice of Rulemaking and Public Hearing

The Arkansas Economic Development Commission (AEDC) is revising administrative rules for the Military Affairs Grant Program, as authorized by authority granted by Act 522 of 2021.

AEDC is soliciting comments on the proposed revised rule filed with the Secretary of State on August 31, 2021. A public hearing for the proposed rule will be held at 9:30 am on October 1, 2021, at the Arkansas Department of Commerce, Riverview Conference Room, 2nd Floor, One Commerce Way, Little Rock, Arkansas 72202.

The administrative rule defines the process by which AEDC reviews and approves Military Affairs Grant Program grant applications and administers the Military Affairs Grant Program. The proposed changes include various definition revisions and technical corrections to conform the existing rule with Act 522 of 2021.

The proposed rule is available at www.ArkansasEDC.com/data-reports/rules or may be obtained by calling (501) 682-2460. Written comments may be submitted through October 1, 2021, by mailing them to Arkansas Economic Development Commission, Policy & Legislative Affairs Division, 1 Commerce Way, Suite 601, Little Rock, Arkansas 72202 or via email at AEDC.EITC.Rules@Arkansas.gov.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ FAX NO. _____ EMAIL: _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
- b) The reason for adoption of the more costly rule;
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
- Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.