

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 _____



Hugh McDonald
SECRETARY OF COMMERCE
Clint O'Neal
EXECUTIVE DIRECTOR,
ARKANSAS ECONOMIC
DEVELOPMENT COMMISSION

DATE: July 12, 2023
TO: All Interested Persons
FROM: Arkansas Economic Development Commission
SUBJECT: Proposed Amendment to the Arkansas Business and Technology Accelerator Grant Program

NOTICE OF PUBLIC HEARING

Please find attached or available by electronic publication by the Arkansas Economic Development Commission (the "AEDC") a proposed amendment to the AEDC's Arkansas Business and Technology Accelerator Grant Program.

Pursuant to the Arkansas Administrative Procedures Act, and all other applicable statutes or rules, NOTICE is hereby given that a PUBLIC HEARING will be held on July 30th, 2024, at 10 a.m. in the Diamond Mine Room on the second floor of the offices of the Arkansas Department of Commerce, 1 Commerce Way, Little Rock, AR 72202.

The purpose of the Public Hearing will be to determine whether the AEDC should adopt the proposed amendments. The proposed amendments expand the list of eligible businesses to include those operating incinerators for the disposal of nonhazardous solid waste.

All interested persons are encouraged to send their comments, statements, or opinions to the address below or to attend the Public Hearing and present, orally or in writing, statements, arguments, or opinions on the proposed amendments. The record will remain open for public comment until the close of the 30-day period outlined in the Arkansas Administrative Procedures Act; in this instance, August 11, 2024.

Persons who wish to testify or make comments are requested to submit intended statements in writing in advance of the Public Hearing. Inquiries should be directed to: Jake Windley, Director of Legislative Affairs & Policies, Arkansas Department of Commerce, 501-682-5355, email: jake.windley@arkansas.gov. A copy of the proposed amendments may be obtained or viewed at <https://www.arkansasedc.com/data-reports/rules>.

Sincerely,

Jake G. Windley
Director of Legislative Affairs & Policies
Arkansas Department of Commerce



Hugh McDonald
SECRETARY OF COMMERCE
Clint O'Neal
EXECUTIVE DIRECTOR,
ARKANSAS ECONOMIC
DEVELOPMENT COMMISSION

Arkansas Business and Technology Accelerator Grant Program Proposed Amended Rule

Summary

Purpose

To amend the Arkansas Business and Technology Accelerator Grant Program rule to include changes enacted by Act 834 of 2023. The amended rule will allow a new category of businesses to be eligible to apply for program funds administered by the Arkansas Economic Development Commission.

Background

The Arkansas Business and Technology Accelerator Grant Program was created in 2017 to stimulate innovation and growth in the state's technology business sector. It allows for a discretionary grant of up to \$250,000 to eligible applicants for eligible activities.

A business and technology accelerator in this rule means a full-time, immersive program administer by an eligible applicant to invest in, mentor, and accelerate commercial development of start-up businesses.

The Division of Science and Technology of the AEDC administers this program. The Commercialization Committee of the Board of Directors of the Division of Science and Technology reviews each application and make funding recommendations to the executive director of the commission.

Act 834 of 2023 amended state statute to allow a business classified by the NAICS 562213 to be eligible for program funding.

Key Points of the amended rule

- Amends the definition of "eligible applicant" of a grant to include a business primarily engaged in operation under NAICS code 562213 of the 2022 NACIS.
- This sector consists of businesses who are engaged in operating combustors and incinerators for the disposal of nonhazardous solid waste.
- The grant awards are made on a reimbursable basis after invoices and financial reports are submitted and approved by the commission.
- Various technical changes and corrections have been made throughout the document.

Proposed effective date

Ten days upon filing of the final approved rule with the Secretary of State.

Arkansas Business and Technology Accelerator Grant Program **Rules**

MARKUP

Section 101. Introduction.

(a) Overview.

(1) The Arkansas Business and Technology Accelerator Grant Program ~~(ArBTAGP)~~, provided for by Act 165 of 2017, as codified at Ark. Code Ann. § 15-3-601 et. seq., was created to stimulate innovation and growth among the state's technology businesses.

(2) The program, administered by the Division of Science and Technology of the Arkansas Economic Development Commission ~~(Division)~~, may provide, to eligible businesses, discretionary grants of up to two hundred fifty thousand dollars (\$250,000) to sponsor business and technology programs to mentor start-up companies.

(3) Objectives of the ~~ArBTAGP~~program are to:

(A) ~~Stimulate corporate growth through the infusion of innovative:~~

(i) ~~ideas~~Ideas;

(ii) ~~products~~Products; and

(iii) ~~services~~Services;

(B) ~~Create high-skilled, high-wage jobs by encouraging the development of technological products and services; and~~

(C) ~~Foster economic growth by linking new ideas, products, and services by entrepreneurs and start-up companies to corporate sponsors seeking the commercialization of new products and services.~~

Program Rule Summary

- ~~1. Eligible applicants shall submit completed applications, on forms prescribed by the Division, to request grant funding from the ArBTAGP.~~
- ~~2. The Director of the Division of Science and Technology of the Arkansas Economic Development Commission (Director), with advice from the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission (Board), shall review and recommend applications for grant funding to the Executive Director of the Arkansas Economic Development Commission (Executive Director).~~
- ~~3. Applicants receiving approval from the Executive Director shall execute grant agreements specifying grant terms and conditions.~~
- ~~4. Grant funding shall be made available to grantees on a reimbursement basis, subsequent to submittal of requests for payment as instructed in the grant agreement by the Division.~~
- ~~5. Grantees shall submit final reports, upon full expenditure of Program grant funds, in accordance with terms specified in the grant agreement.~~

Contact Information

~~For more information, please contact:
Arkansas Economic Development Commission
Division of Science and Technology~~

900 West Capitol, Suite 400
Little Rock, AR 72201
(501) 682-1121

~~II. Rulemaking Authority~~

~~The AEDC has authority, at § 15-3-608, to promulgate rules necessary to administer the Arkansas Business and Technology Accelerator Grant Program.~~

Section 102. ~~III~~ Definitions.

~~1.~~ (1) “Business and technology accelerator” means a full-time, immersive program administered by an eligible applicant to potentially invest in, mentor, and accelerate commercial development of start-up businesses;

~~2.~~ (2) “Business and technology accelerator grant” means a discretionary grant of up to two hundred fifty thousand dollars (\$250,000) for each approved business and technology accelerator application; and

~~3.~~ (3) “Eligible applicant” means an entity that is:

~~A.~~ (A) Registered as a business entity in good standing with the Arkansas Secretary of State; and

~~B.~~ (B) Principally engaged in one (1) or more of the following categories of business or industry:

~~(i).~~ (i) A manufacturer classified in sectors 31-33 of the 2012 North American ~~Industrial~~ Industry Classification System;

~~(ii).~~ (ii) A business that:

~~(a).~~ (a) —Is primarily engaged in:

~~(1) the~~ (1) The design and development of prepackaged software;;

~~(2) digital~~ (2) Digital content production and preservation;;

~~(3) computer~~ (3) Computer processing and data preparation services;; or

~~(4) information~~ (4) Information retrieval services; and

~~(b).~~ (b) —Derives at least seventy-five percent (75%) of its sales revenue from out of state;

~~(iii).~~ (iii) An office sector business whose business operations support primary business needs, including without limitation customer service, credit accounting, telemarketing, claims processing, and other administrative functions that:

~~(a).~~ (a) —Is a nonretail business; and

~~(b).~~ (b) —Derives at least seventy-five percent (75%) of its sales revenue from out of state;

~~(iv).~~ (iv) A national or regional corporate headquarters as classified in sector 551114 of the 2012 North American ~~Industrial~~ Industry Classification System;

~~(v).~~ (v) A scientific and technical services business that derives at least seventy-five percent (75%) of its sales revenue from out of state;

~~(vi)~~(vi) –A firm primarily engaged in commercial, physical, and biological research as classified in code 541711 or 541712 of the 2012 North American ~~Industrial~~Industry Classification System; ~~and~~

~~(vii)~~(vii) A firm engaged in one (1) or more of the following categories:

~~(a)~~(a) Advanced materials and manufacturing systems;

~~(b)~~(b) Agriculture, food processing, and environmental sciences;

~~(c)~~(c) Biotechnology, bioengineering, and life sciences;

~~(d)~~(d) Information technology;

~~(e)~~(e) Transportation logistics; and

~~(f)~~(f) Internet-enabled technology or service solution of one (1) or more of the categories described in ~~subdivision section 102.3.B.(vii)(a)-(e) of this section; and~~

~~(viii)~~ A business that is primarily engaged in operating combustors and incinerators for the disposal of nonhazardous solid waste, as classified in code 562213 of the 2022 North American Industry Classification System.

Section 103. ~~IV~~ Eligibility.

(a) **Eligible ~~Applicants~~ applicants.** To be eligible to receive ~~ArBTAGP~~Arkansas Business and Technology Accelerator Grant Program funding, an applicant shall:

~~1.~~(1) Meet the definition of “eligible applicant”; and

~~2.~~(2) Submit a completed, signed application, on forms provided by the Division of Science and Technology of the Arkansas Economic Development Commission.

(b) **Eligible ~~Costs~~ costs.**

The Division will review all expenditure requests prior to payment to ensure that costs are consistent with the terms and conditions of the grant agreement.

Section 104. ~~V~~ Application ~~Process~~ process.

(a) Application ~~Submittal~~submittal.

(1) To request ~~ArBTAGP~~Arkansas Business and Technology Accelerator Grant Program funds, eligible applicants shall, utilizing forms prescribed by the Division of Science and Technology of the Arkansas Economic Development Commission, submit a completed, signed application with all supporting documentation to the Division.

(2) Applications shall include:

~~1.~~(A) Accelerator title;

~~2.~~(B) Contact information;

~~3.~~(C) Proof of legal organization as a business entity in good standing with the Arkansas Secretary of State;

~~4.~~(D) A statement of work;

~~5.~~(E) The amount of funding requested; and

~~6.~~(F) Start and completion dates of the project.

(b) Application ~~Review and Approval~~review and approval.

No grant offer shall be made by the ~~Executive~~ Director of the Arkansas Economic Development Commission to an applicant until the Division has completed the following review and approval process:

~~1.~~(1) The Division shall conduct a preliminary review of each application, in order of receipt, to confirm that it:

- ~~A.~~(A) Was submitted by an eligible applicant;
- ~~B.~~(B) Is for a targeted business activity consistent with program objectives; and
- ~~C.~~(C) Is complete, including all required attachments;

~~2.~~(2)(A) At its discretion, the Division may request supplemental materials from the applicant.

~~(B)~~ All supplemental materials must be received at least forty-five (45) days prior to the next scheduled meeting of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission;

~~3.~~(3) All applications meeting preliminary review requirements shall be forwarded to the ~~Board~~board at least thirty (30) days prior to ~~their~~its next scheduled meeting;

~~4.~~(4) The Board shall:

- ~~A.~~(A) Review each application in accordance with program rules; and
- ~~B.~~(B) Forward, for each application reviewed, a recommendation to approve or disapprove the application to the Director of the Division of Science and Technology of the Arkansas Economic Development Commission;

~~5.~~(5) The ~~Director~~Director of the Division of Science and Technology shall review each application in accordance with program rules and the advice and recommendation of the Commercialization Committee of the ~~Board~~board;

~~6.~~(6) Upon completion of review, the ~~Director~~Director of the Division of Science and Technology will provide preliminary funding recommendations to the ~~Executive~~Director of the Arkansas Economic Development Commission; and

~~7.~~(7)(A) The ~~Executive~~Director of the Arkansas Economic Development Commission, after reviewing ~~the Director of the Division of Science and Technology~~ recommendations, will specify which applicants may receive grants.

~~A.~~(B) Unsuccessful applicants will be notified in writing by the Director of the Division of Science and Technology.

~~B.~~(C) Approved applicants will be required to execute a grant agreement outlining the amount, terms, and conditions of the grant.

Section-105. VI. Grant ~~Agreements~~agreements.

~~1.~~(a)(1) ~~ArBTAGP~~Arkansas Business and Technology Accelerator Grant Program grants may be awarded, ~~pending availability of funds~~, at the discretion of the ~~Executive~~Director of the Arkansas Economic Development Commission.

~~(2)~~ Grant agreements shall specify:

- ~~A.~~(A) The eligibility date for incurring project costs;
- ~~B.~~(B) Terms and conditions of the grant;
- ~~C.~~(C) The amount of approved costs; and
- ~~D.~~(D) The process by which grant funds shall be invoiced and disbursed to the grantee.

~~2.~~(b) The amount of the grant shall be discretionary and may be for amounts less than requested.

~~3.~~(c) Grants may be funded from any source of funds allocated to the ~~ArBTAGP~~program.

~~4.~~(d) Grants will be executed according to the following process:

~~A.~~(1) Two (2) original copies of the grant agreement will be prepared by the Director of the Division of Science and Technology of the Arkansas Economic Development Commission and forwarded to the grantee for signature and return;

~~B.~~(2) Upon receipt of the signed grant agreements from the grantee, the Director of the Division of Science and Technology will prepare an approval letter and forward the grant agreements and the approval letter to the ~~Executive~~ Director of the Arkansas Economic Development Commission for signature; and

~~C.~~(3)(A) One (1) original copy of the grant agreement will be forwarded to the grantee with the signed approval letter.

~~(B)~~ One (1) original copy of the grant agreement will be retained by the Director of the Division of Science and Technology.

~~5.~~(e) Any material change to the scope of the project is subject to prior approval by the ~~Executive~~ Director of the Arkansas Economic Development Commission.

Section 106. VII. Confidential ~~information~~information.

~~(a)~~ Applications submitted to the Division of Science and Technology of the Arkansas Economic Development Commission are subject to the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

~~(b)~~ To the extent an applicant believes that information in an application is confidential or otherwise exempt under the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., the applicant shall specifically designate in writing the information the applicant believes to be confidential or exempt and the basis for the confidentiality or exemption on that portion of the application in which the information appears.

Section 107. VIII. Reimbursement.

~~(a)~~ Disbursements of Arkansas Business and Technology Accelerator Grant Program funds shall be made on a reimbursable basis, payable when invoices and financial reports are submitted to the Division of Science and Technology of the Arkansas Economic Development Commission.

Section 108. IX. Final ~~Report~~report.

~~(a)~~ Grantees shall submit final reports, upon full expenditure of ~~ArBTAGP~~Arkansas Business and Technology Accelerator Grant Program-~~grant~~ funds, in accordance with terms specified in the grant agreement.

~~(b)~~ Reports shall:

~~A.~~(1) Include a one-page non-proprietary executive summary describing the impact and positive effect of the receipt of ~~ArBTAGP~~program funds;

~~B.~~(2) Document final expenditure of grant funds;

~~C.~~(3) Provide an updated status of the project;

~~D.~~(4) Summarize economic effects of the ~~ArBTAGP~~program on job creation, project commercialization, and patent applications filed or approved subsequent to grant award; and

~~E.~~(5) Certify that all grant terms and conditions were met.

~~(c)~~ If a grantee fails to provide the required final report stated in this section they may be:

(A) Ineligible to receive further Arkansas Business and Technology Accelerator Grant Program awards; and

(B) Subject to repayment language in the grant agreement.

~~X. — Effective Date~~

~~These rules are effective on or after October 1, 2017.~~

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

 Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

 Total _____

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

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

 Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

 Total _____

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

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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.