

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

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ARKANSAS PORT, INTERMODAL, AND WATERWAY DEVELOPMENT PROGRAM RULES

ARKANSAS WATERWAYS COMMISSION
ARKANSAS DEPARTMENT OF COMMERCE - Agency 9902

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1.2 AUTHORIZATION

2.0 PROGRAM DESCRIPTION

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1.0 GENERAL INFORMATION

The Arkansas Waterways Commission was established by Act 242 of 1967 and its powers and duties were amended by Act 414 of 1973. The Commission's general authority is codified at Ark. Code Ann. § 15-23-201. The Arkansas Waterways Commission is the sole state agency responsible for developing, promoting and protecting waterborne transportation in Arkansas. The Commission also promotes economic development for ports on the five commercially navigable rivers of the state: the Arkansas, Mississippi, Ouachita, Red and White Rivers.

1.1 PROGRAM NAME

These rules govern the Arkansas Port, Intermodal, and Waterway Development Grant Program.

1.2 AUTHORIZATION

The Arkansas Port, Intermodal, and Waterway Development Grant Program is authorized by Ark. Code Ann. § 15-23-305 and § 19-5-1253.

2.0 PROGRAM DESCRIPTION

The Arkansas Port, Intermodal, and Waterway Development Grant Program provides financial assistance to port authorities and intermodal authorities for the purpose of funding port development projects. The goals of the program are to provide public funds to build land-side infrastructure and to dredge ports and waterways. Funding this infrastructure will provide jobs and competitive transportation costs for moving cargo, thereby minimizing highway congestion, improving safety, and reducing maintenance costs related to Arkansas's highways. This program will also allow Arkansas products to reach additional markets.

3.0 TYPE OF AWARD

- 3.1 The total maximum funding will be limited to the amount of money made available to the Commission for the program.
- 3.2 There is no minimum amount of funding that may be applied for by an eligible applicant. The maximum amount that may be applied for by an eligible applicant is the maximum amount of funds available.

- 3.3 There is no maximum of number of awards that can be received for an eligible applicant in one state fiscal year.
- 3.4 Funds granted may not exceed ninety percent (90%) of construction costs or fifty percent (50%) of dredging costs.

4.0 ELIGIBILITY

4.1 ELIGIBILITY CRITERIA

- 4.1.1 Eligible applicants are an Arkansas public port authority or public intermodal authority **to exclude ports, intermodal authorities, or any other public entity located along the McClellan-Kerr Arkansas River Navigation System (MKARNS) due to the Arkansas River Navigation Fund established by Act 561 § 19-5-1264.** A port facility can include an intermodal facility and maritime-related industrial park infrastructure development.
- 4.1.2 Eligible projects are construction, improvement, capital facility rehabilitation, and expansion of a public port facility. Dredging projects are also eligible.
- 4.1.3 Planning projects and feasibility studies shall not be eligible.
- 4.1.4 Funds granted may not exceed ninety percent (90%) of the cost of construction or fifty percent (50%) of dredging costs.
- 4.1.5 Eligible projects may be projects that were completed within a year prior to the grant application.

4.2 CONFLICT OF INTEREST

- 4.2.1 No Director, officer or employee of the Arkansas Waterways Commission, for purpose of personal gain, shall have or attempt to have, directly or indirectly, any interest in any contract or agreement of the Commission in connection with the Arkansas Port, Intermodal, and Waterway Development Grant Program.
- 4.2.2 It shall not be a conflict of interest for the Commission to permit any port, intermodal or waterway with which a Director of the Commission is affiliated to participate in any program of the Commission, provided that such Director

shall promptly disclose the nature of the affiliation to the Commission.

5.0 APPLICATION PROCESS

- 5.1 Applications for the Arkansas Port, Intermodal, and Waterways Development Grant shall be submitted on the form prescribed by the Commission.
- 5.2 A Resolution passed by the board of the grant applicant must be enclosed with the application. The Resolution must have the signature of the Chair of the board.
- 5.3 The Commission reserves the right to request additional information as required for evaluation.
- 5.4 **Cost estimate submitted with application must come from a certified engineer, construction company, or manufacturer with vendor's logo and contact information on the documentation submitted.**

6.0 EVALUATION

Projects will be evaluated by the Commission, which may request the assistance of appropriate representatives from academia, private enterprise, or the public sector. Applications meeting the eligibility requirements will be evaluated on the basis of the evaluation criteria outlined below.

6.1 EVALUATION CRITERIA

- 6.1.1 The qualified applicant and the associated enterprise must have the support and resources available to ensure a reasonable probability of project success if a development grant is awarded.
- 6.1.2 The proposed development project must have commercial Feasibility **and positively impact a commercially navigable waterway in the State of Arkansas**. The development should provide the port, intermodal or waterway with the ability to compete more effectively in the marketplace.

7.0 GRANT AWARDS

- 7.1 The Arkansas Waterways Commission shall make the final decision to select recipients of funding from the Arkansas Port, Intermodal, and Waterway Development Grant Program. Funding decisions will be based on information derived from the Program review.
- 7.2 The Arkansas Waterways Commission will notify all applicants, selected or not, within 15 business days of the Commission's decision.
- 7.3 The Arkansas Waterways Commission will notify the state Treasurer's office and the Treasurer's office will mail warrants **or direct deposit funds** for approved projects. ~~within 30 days of the announcement of grant awards.~~
- 7.4 Grant recipients shall designate a bank account **with routing information** for grant funds and matching funds. Before grant award is remitted, grant recipient must demonstrate that the cash match is in this account **within 60 days of notice of award to recipient, or forfeiture of grant award will occur.**
- 7.5 Grant recipients must expend grant funds **within a year from award date or the Arkansas Waterways Commission must grant an extension upon proof that all reasonable efforts have been made to comply.** Grant funds shall be utilized and expended by the applicant solely and exclusively for the payment of authorized and allowable costs and expenses of the project for which assistance was approved.
- 7.6 If all grant funds are not utilized and expended by the applicant for the specific Project for which such funds were furnished within one year, the grant recipient shall return or otherwise pay or reimburse to the Commission any and all such unused funds or any amounts of funds used and expended for unauthorized or unallowable purposes; or the applicant may submit a request to the ~~Executive~~ Director of the Arkansas Waterways Commission to use leftover funds for another project. The Commissioners of the Arkansas Waterways Commission shall approve or disapprove the request.
- 7.7 **The grant award recipient must deposit the exact amount applicant stated in the grant application if awarded the full amount requested. If the full amount requested is not awarded, the applicant will deposit 10% of the awarded amount, unless it is a dredge project, in which case 50% must be deposited.**

8.0 GRANT REPORTING

- 8.1 Grantees shall complete a quarterly, **signed** expenditure report **and submit it to the Arkansas Waterways Commission within 30 days of report being due**, certifying the accurate expenditure of funds, **to remain in compliance and be eligible for the next year's program.**
- 8.2 Grantees shall complete a final, **signed** expenditure report **and submit it to the Arkansas Waterways Commission within 30 days of the final expenditure, certifying the accurate** expenditure of funds, **to remain in compliance and be eligible for the next year's program.**
- 8.3 ~~Grantees must submit final expenditure report to the Arkansas~~
~~Waterways Commission within 10 days after the end of the state~~
~~fiscal year or 30 days after making the final expenditure of the~~
~~grant, whichever is earlier.~~

All reports shall be subject to review by the state Legislative Audit.

9.0 FREEDOM OF INFORMATION

All information submitted in applications is subject to the provisions of the Freedom of Information Act.

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