

**ARKANSAS PORT, INTERMODAL, AND WATERWAY DEVELOPMENT
PROGRAM RULES**

ARKANSAS WATERWAYS COMMISSION
Agency 0341
101 E. Capitol Avenue, Suite 370 - Little Rock, AR 72201

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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. § 15-23-205 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 Grant recipients must expend funds within one year from receiving the grant.~~

~~3.3~~ 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.

~~3.4~~ 3.3 There is no maximum of number of awards that can be received for an eligible applicant in one state fiscal year.

~~3.5~~ 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. 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.

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. The development should provide the port, intermodal or waterway with the ability to compete more effectively in the marketplace.
- 6.1.3 ~~The proposed project must have a time frame of no longer than one year of the year the award is given.~~

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 for approved projects ~~within 30 days of the announcement of grant awards.~~
- 7.4 Grant recipients shall ~~establish a separate~~ designate a bank account for grant funds and matching funds. Before grant award is remitted, grant recipient must demonstrate that the cash match is in this account.
- 7.5 Grant recipients must expend grant funds within ~~one year from receiving the grant~~ the current state fiscal year awarded. 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~~ the state fiscal 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.

8.0 GRANT REPORTING

- 8.1 Grantees shall complete a quarterly expenditure report and sign it certifying the accurate expenditure of funds.
- 8.2 Grantees shall complete a final expenditure report and sign it certifying the accurate expenditure of funds.
- 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.

~~8.2~~ 8.4 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.

Amended MARK-UP

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Waterways Commission
DIVISION _____
PERSON COMPLETING THIS STATEMENT Gene Higginbotham
TELEPHONE NO. 501.682.1173 **FAX NO.** 501.682.1196 **EMAIL:** _____

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

SHORT TITLE OF THIS RULE Arkansas Port, Intermodal and Waterway Improvement Development Grant 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?

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
General Revenue _____	General Revenue _____
Federal Funds _____	Federal Funds _____
Cash Funds _____	Cash Funds _____
Special Revenue _____	Special Revenue _____
Other (Identify) _____	Other (Identify) _____

- (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.

Total _____

Total _____

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

Current Fiscal Year

Next Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
 Total	 <u>\$0.00</u>

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
 Total	 <u>\$0.00</u>

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

\$ \$0.00

\$ \$0.00

Under amended rules Port Authorities will no longer be required to open a new account each 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