

Notice of Rule Making and Public Hearing

The Arkansas Economic Development Commission is promulgating new rules for administering the Community Assistance Grant Program, as authorized by authority granted under § 15-4-209(b)(5).

The rules define the process by which the Arkansas Economic Development Commission administers the Community Assistance Grant Program.

The Arkansas Economic Development Commission is soliciting comments on the proposed new rules filed with the Secretary of State on March 29, 2018. A public hearing for the proposed new rules will be held at 1:00 pm on May 7, 2018, at the Arkansas Economic Development Commission, Rockefeller Conference Room, 4th Floor, 900 West Capitol, Little Rock, Arkansas 72201.

Proposed rules are on the department's website www.ArkansasEDC.com or may be obtained by calling (501) 682-7308. Written comments may be submitted through May 7, 2018, by mailing them to the Arkansas Economic Development Commission, Strategic Planning and Research Division, 900 West Capitol, Little Rock, Arkansas 72201 or by faxing them to (501) 682-7499. Comments will also be accepted via email at knaumann@ArkansasEDC.com.

Community Assistance Grant Program Rules

I. Introduction

Overview

Pursuant to authority granted by § 15-4-209, the Arkansas Economic Development Commission (AEDC) shall administer the Community Assistance Grant Program (CAGP).

The objective of the CAGP is to foster AEDC's mission statement "to create economic opportunity by attracting higher paying jobs, expanding and diversifying our state and local economies, increasing incomes and investment, and generating positive growth throughout Arkansas" by providing grant funds to cities of the first class, cities of the second class, incorporated towns, unincorporated communities, counties, or governmental entities of the State of Arkansas for eligible community and economic development projects. All project expenditures shall be completed within eighteen (18) months after the date of the grant award, unless such date has been extended by AEDC at the request of the grantee.

Contact Information

For more information, please contact:
Arkansas Economic Development Commission
900 West Capitol, Suite 400
Little Rock, AR 72201
(501) 682-1121

II. Rulemaking Authority

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

III. Community Assistance Grant Program Funding

The AEDC may utilize any funds legally appropriated and available to the CAGP to provide grants to eligible applicants for eligible community and economic development projects.

CAGP grants may be awarded, pending availability of funds, at the discretion of the Executive Director of the Arkansas Economic Development Commission (Executive

Director), or his or her designee. The amount of grant award shall be determined by the AEDC based upon eligibility criteria, availability of funding, and program demand for funds which may result in grant offers that are less than application requests.

Funds shall not be made available for the following expenditures:

- Routine repair, maintenance, and operation including supplies, utilities, and salaries;
- State or private fairgrounds;
- Principal and interest on any financed debt;
- Any and all travel, training, or other personnel-related expenses;
- Obligations incurred prior to grant award;
- Expenditures that are unsupported by documentation;
- Lobbying expenses;
- Purchases of alcohol;
- Entertainment expenses, including meals and activity fees;
- Purchases of material and services that result in benefits accruing to areas outside the State of Arkansas; and
- Other expenses specified at the discretion of AEDC.

IV. Definitions

1. “AEDC” means the Arkansas Economic Development Commission;
2. “Eligible applicant” means a city of the first class, city of the second class, incorporated town, unincorporated community, county, or governmental entity of the State of Arkansas;
3. “Eligible community and economic development project” means a project which effectuates the construction, improvement, upgrading, renovation, retrofitting, equipping, rehabilitation, purchase, or addition of assets owned, leased, or otherwise under the jurisdiction of the eligible applicant including, without limitation, government buildings, community centers, transportation infrastructure, memorials, parks, amphitheaters, libraries, recreational facilities, fire-protection equipment, cemeteries, utilities, museums, public health facilities, public safety facilities, police equipment, emergency shelters, recycling centers, county fairs, childcare centers, senior centers, youth centers, or real estate;
4. “Executive Director” means the Executive Director of the Arkansas Economic Development Commission;
5. “Leased” means the grant of use and possession of an asset for a term of at least ten (10) years beyond the date of award of a Community Assistance Grant Program award; and
6. “Review Committee” means an ad hoc committee comprised of at least three (3) AEDC staff members, with grant review and administration experience, selected

by the Executive Director of the Arkansas Economic Development Commission, or his or her designee, to review and recommend for funding eligible community and economic development projects submitted by eligible applicants under the Community Assistance Grant Program.

V. Eligibility Criteria

Applicant eligibility requirements include the following:

1. The applicant is a city of the first class, city of the second class, incorporated town, unincorporated community, county, or governmental entity of the State of Arkansas;
2. The applicant has submitted a completed application, on forms supplied by the AEDC, that has been signed by the governing official authorized by the applicant's jurisdiction to conduct business on its behalf;
3. The application is for an eligible community and economic development project that meets the objective of the CAGP;
4. Requested funding is for eligible project costs;
5. The amount of funding available to any one (1) project in any state fiscal year shall not exceed fifty thousand dollars (\$50,000);
6. The application is accompanied by a resolution passed by the city council or quorum court, whichever is appropriate, instructing the governing official authorized by the applicant's jurisdiction to conduct business on its behalf to apply for CAGP funding; and
7. The applicant shall complete the application submittal and review processes delineated in Sections VI and VII of these rules.

VI. Application Submittal Process

Potential applicants for CAGP funds shall submit two (2) completed applications signed by the governing official authorized by the applicant's jurisdiction to conduct business on its behalf, in accordance with AEDC submittal instructions, utilizing forms provided by AEDC.

1. Applications shall include:
 - A. The name, address, and phone number of the applicant;
 - B. The contact person's name, title, and contact information;
 - C. Sources(s), amount(s), and uses(s) of AEDC and non-AEDC funds, including a completed budget delineating cost estimate breakdowns and backup documentation for all items;
 - D. A brief description of the project;
 - E. A statement of project need, including a discussion of any emergencies or urgent need to be addressed by the project;

- F. A list of beneficiaries of the proposed project, how they will benefit, and how they will utilize the project;
- G. A copy of a deed, title, lease, or other instrument showing proof of public ownership, or legal possession, of properties being improved by this project;
- H. A signed certification letter from the governing official authorized by the applicant's jurisdiction to conduct business on its behalf agreeing to accept responsibility for administering any grant award;
- I. A copy of a signed resolution passed by the city council or quorum court authorizing the local elected official to apply for CAGP funds on behalf of the local jurisdiction; and
- J. Other information as requested by AEDC.

VII. Application Review and Approval Process

No financial commitment shall be made by the Executive Director, or his or her designee, to an applicant until the applicant has completed the following AEDC review and approval process.

- A. All applications will be date-stamped and reviewed in order of receipt by the Review Committee, assigned by the Executive Director, or his or her designee, for completeness and eligibility, including a determination that;
 - (i) The applicant is a city of the first class, city of the second class, incorporated town, unincorporated community, county, or governmental entity of the State of Arkansas;
 - (ii) The application is complete, signed, and includes all attachments;
 - (iii) The scope of the project meets the definition of eligible community and economic development project;
 - (iv) The sources and uses of funds are sufficient to ensure the successful completion and initial operation of the project; and
 - (v) Project costs are eligible for funding.
- B. Applicants may be subject to an interview or site visit, or both, during the application review process;
- C. The Review Committee may ask applicants for additional information before recommending projects for funding;
- D. The Review Committee will provide a project summary of each project reviewed to the Executive Director, or his or her designee;
- E. The Executive Director, or his or her designee, may seek the advice of boards and commissions advising AEDC or other officials with expert community and economic development knowledge in making final funding decisions;
- F. The Executive Director, or his or her designee, will specify which applicants may receive funding;

- (i) Unsuccessful applicants will be notified in writing by the Executive Director, or his or her designee.
 - (ii) Approved applicants will receive a grant award notification letter outlining the amount, terms, and conditions of the funding.
- G. Grant funds will be disbursed to successful applicants;
- H. All project expenditures shall be completed within eighteen (18) months after the date of the grant award, unless such date has been extended by AEDC at the request of the grantee; and
- I. A final report including cancelled checks and receipts of all funds expended along with the state's portion of any unspent funds, shall be submitted to AEDC no more than sixty (60) days following the project's completion or within the eighteen (18) month period of the grant award, or other date as approved by AEDC, whichever comes first.

VIII. Effective Date

These rules are effective on or after July 1, 2018.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Economic Development Commission
DIVISION Strategic Planning and Research
DIVISION DIRECTOR Kurt Naumann
CONTACT PERSON Kurt Naumann
ADDRESS 900 West Capitol; Little Rock, AR 72201
PHONE NO. 501-682-7308 FAX NO. 501-682-7499 E-MAIL knaumann@arkansasedc.com
NAME OF PRESENTER AT COMMITTEE MEETING Kurt Naumann, Kenneth Burleson
PRESENTER E-MAIL knaumann@arkansasedc.com; kburleson@arkansasedc.com

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Community Assistance Grant Program

This is a new rule which establishes the process by which the Arkansas Economic Development Commission shall accept, review, and approve applications submitted by eligible applicants for eligible community and economic development projects. This rule:

- 1. Specifies the process by which eligible applicants may submit applications for funding eligible community and economic development projects.
- 2. Defines key terms including AEDC; Eligible Applicant; Eligible Community and Economic Development Project; Executive Director; Leased; and Review Committee.
- 3. Delineates eligibility criteria for funding.
- 4. Specifies the process by which applications for funding shall be reviewed and approved.
- 5. Establishes an effective date of July 1, 2018.

2. What is the subject of the proposed rule?

3. Is this rule required to comply with a federal statute, rule, or regulation?

Yes

No

If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes No

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

This rule establishes the process by which a city of the first class, city of the second class, incorporated town, unincorporated community, county, or governmental entity of the State of Arkansas may submit applications for grant funding to the Arkansas Economic Development Commission for eligible community and economic development projects under the Community Assistance Grant Program. The Community Assistance Grant Program is a new program which may utilize any such funds dedicated to AEDC for grant funding for eligible projects.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule?

Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. § 15-4-209(b)(5) enabling legislation for AEDC to promulgate rules to administer programs.

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose of this rule is to establish a transparent process by which future grant funding by AEDC for eligible community and economic development projects can occur. Such a rule, as permitted by 15-4-209(b)(5) will ensure that all future applicants for eligible community and economic development projects will have a delineated, codified process to follow regarding application submittal, review, and approval processes.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.arkansasedc.com

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: May 7, 2018
Time: 1:00 pm
Arkansas Economic Development
Commission, Suite 400; 900 West
Place: Capitol, 4th Floor; LR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
May 7, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
July 1, 2018

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Draft attached

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). See attached

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. None

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Economic Development Commission

DIVISION Strategic Planning and Research

PERSON COMPLETING THIS STATEMENT Kurt Naumann

TELEPHONE 501-682-7308 **FAX** 501-682-7499 **EMAIL:** knaumann@arkansasedc.com

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 Community Assistance Grant Program

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

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total \$0 _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total \$0 _____

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

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) \$250 (Legal Advertisement)
Total \$250 _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total \$0 _____

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

\$ _____
\$0

Next Fiscal Year

\$ 0 _____

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

\$ _____

\$0

Next Fiscal Year

\$ 0 _____

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.