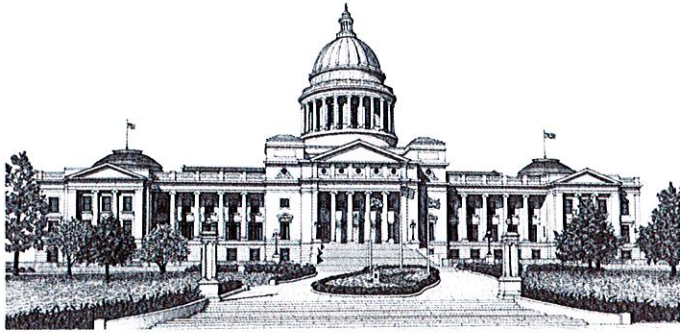


ARKANSAS REGISTER



Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**

Secretary of State

John Thurston

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Parks, Heritage & Tourism

Department Division of Heritage

Contact Leslie Fisker E-mail leslie.fisker@arkansas.gov Phone (501) 324-9586

Statutory Authority for Promulgating Rules Ark. Code Ann. §13-8-301 et seq., § 25-3-101 et seq., §25-15-201 et seq., §25-15-203 (a)(1)(2)

Rule Title: Arkansas Cultural Institutions Trust Fund Act Rules

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204)	Legal Notice Published	<u>March 7 through 9, 2022</u>
☒ 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>April 6, 2022</u>
☐ Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislative Council	<u>May 20, 2022</u>
	Adopted by State Agency	<u>May 31, 2022</u>

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

<u>Leslie Fisker</u>	<u>leslie.fisker@arkansas.gov</u>	<u>May 20, 2022</u>
Contact Person	E-mail Address	Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Leslie Fisker
Signature
(501) 324-9586 leslie.fisker@arkansas.gov
Phone Number E-mail Address
Chief of Legislative Affairs
Title
May 20, 2022
Date

ARKANSAS DEPARTMENT OF PARKS, HERITAGE AND TOURISM

DIVISION OF HERITAGE

Arkansas Cultural Institutions Trust Fund Act Rules

Effective Date: May 31, 2022

1.0 REGULATORY AUTHORITY AND PURPOSE

1.01 The Arkansas Department of Parks, Heritage and Tourism, enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §13-8-301 et seq., Division of Arkansas Heritage, Ark. Code Ann. § 25-3-101 et seq. and §25-15-201 et seq., Ark. Code Ann. §25-15-203 (a)(1)(2).

1.02 The purpose of these rules in accordance with Arkansas Cultural Institutions Trust Fund Act, Act 777 of 2021, codified as Ark. Code Ann. § 13-8-301 et seq., is to (1) create an application process for the administration of a grant program for the Arkansas Cultural Institutions Trust Fund and to (2) otherwise effectuate the purposes of Act 777. The rule includes items such as who is eligible to apply for the grant, how applications are evaluated, documentation required by the applicant and the timeline for application and decision.

2.0 ORGANIZATION

2.01 The Arkansas Cultural Institutions Trust Fund Act shall be implemented and administered by the Division of Arkansas Heritage as set forth in Act 777 of 2021, codified as §13-8-301 et seq.

3.0 DEFINITIONS

3.01 "Arkansas cultural institution" means a 501(c)(3) nonprofit organization located in the State of Arkansas that is open to the public and that acquires, conserves, researches, communicates, or exhibits works of art, artifacts or works of cultural or historic significance, or related items significant to the heritage of Arkansas for the purposes of education, study, and enjoyment.

3.02 "Major capital improvement project" means permanent structural change or the restoration of some aspect of a building utilized by an Arkansas cultural institution.

4.0 APPLICATION PROCESS

4.01 Application for Grant Award

An Arkansas cultural institution as defined in Section 3.0, may apply for a grant from the Arkansas Cultural Institution Trust Fund. The guidelines and access to the online application will be available on the Division of Arkansas Heritage website under Division of Arkansas Heritage grants at <https://www.arkansasheritage.com/available-grants/division-of-arkansas-heritage-grants>.

The application will request that the applicants provide detailed information regarding the project and applicants will be allowed to submit documents and pictures to support their applications.

4.02 Review of Applications by Arkansas Cultural Institutions Trust Fund Review Committee

The applications for grants from the fund will be reviewed by the Arkansas Cultural Institutions Trust Fund Review Committee.

The Arkansas Cultural Institutions Trust Fund Review Committee will be created by the Secretary of the Arkansas Department of Parks, Heritage, and Tourism in accordance with Ark. Code Ann. § 13-8-303. The Arkansas Cultural Institutions Trust Fund Review Committee will include three members including (1) the director of the Division of Arkansas Heritage; (2) the director of the Division of Arkansas Tourism; and (3) a director of an accredited museum within the Division of Arkansas Heritage.

4.03 Factors Considered by Review Committee

In evaluating applications, the Arkansas Cultural Institutions Trust Fund Review Committee will evaluate the application and will consider the following factors:

- 1) The estimated economic and tourism impact of the project;
- 2) Availability of other project funding sources; and
- 3) Overall cost of the project

In evaluating the application, the total project cost should be a minimum of \$7 million. Arkansas Cultural Institutions Trust Fund Review Committee (Committee) will consider the economic impact of the project including the impact upon the region where the cultural institution is located including, but not limited to, tax revenue generated by the project, number of visitors, jobs and business creation, impact on existing businesses as well as overall tourism impact. The Committee can consider other factors in addition to the above referenced factors. As part of the application process, applicants will be allowed to submit documents and pictures to support their application.

4.04 Criteria for Distribution of Funds

The criteria for the distribution of grant funds will include, without limitation, the following factors:

- 1) Estimated economic and tourism impact of the project;
- 2) Availability of other project funding sources; and
- 3) Overall project cost.

5.0 APPLICATION REVIEW

Each member of the Arkansas Cultural Institutions Trust Fund Committee will review the application. After individual review by each member, the Arkansas Cultural Institutions Trust Fund Committee shall meet to discuss award recommendations based on the amount of funding available.

6.0 COMMITTEE RECOMMENDATION

The recommendations of the Arkansas Cultural Institutions Trust Fund Committee shall be submitted to the Secretary of the Arkansas Department of Parks, Heritage, and Tourism for approval.

7.0 USE OF FUNDS AND ANNUAL REPORT

The Arkansas Cultural Institutions Trust Fund will be used for major capital improvement projects at Arkansas cultural institutions. The Division of Arkansas Heritage will submit an annual report to the Secretary of the Arkansas Department of Parks, Heritage, and Tourism by June 30 of each year. The report will include a summary of the grants awarded and amounts distributed by the Arkansas Cultural Institutions Trust Fund. Additionally, the report will include recommendations directed toward furthering the purposes of the Division of Arkansas Heritage, including preservation and promotion of Arkansas's natural and cultural heritage.

8.0 CREATION OF ARKANSAS CULTURAL INSTITUTIONS TRUST FUND

Under Ark. Code Ann. § 19-5-1155 (a), the funds for this grant program will be held in the Arkansas Cultural Institutions Trust Fund through the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State. The fund shall consist of grants, donations, or transfers made by any person or government agency or office and any other funds authorized or provided by law. Any remaining funds will carry over to the next fiscal year.

The Arkansas Cultural Institutions Trust Fund will be used for the purposes set out in § 13-8-305.



Arkansas Cultural Institutions Trust Fund Grant Program

This grant is being offered by the Arkansas Department of Parks, Heritage and Tourism. The Division of Arkansas Heritage is a division within the Arkansas Department of Parks, Heritage and Tourism. Since 1975, the Division of Arkansas Heritage has been charged with discovering, strengthening, protecting, and preserving Arkansas's natural and cultural heritage. To fulfill its mission, the Division of Arkansas Heritage coordinates the following natural and cultural heritage resource areas:

The Heritage Museums: Museums research, preserve, present, and interpret historic structures, objects, and natural and cultural assets. They serve as a partner in education with public and private schools throughout Arkansas. The department's four museums are the Delta Cultural Center, Historic Arkansas Museum, Mosaic Templars Cultural Center and Old State House Museum.

The Heritage Resource Agencies: The Arkansas Natural Heritage Commission identifies, protects, and promotes areas that best exemplify Arkansas's rich heritage of biological diversity. These areas might be habitat for rare or disappearing species, or natural communities such as a tallgrass prairie or a river and its dependent aquatic system. The Arkansas Arts Council and the Arkansas Historic Preservation Program are conduits for federal and state grant money, and they provide technical assistance for developing and conserving Arkansas's cultural resources. They preserve and promote Arkansas's cultural resources including Arkansas's fine and traditional arts and historic structures, landscapes, and archeological sites. The Arkansas State Archives collect and preserve the official records and historical materials for the state of Arkansas. These include state, county, and federal records, manuscript materials, newspapers, military records, family histories, an extensive Arkansas history and genealogy library, and a collection of Arkansas art and artifacts.

Guidelines for the Arkansas Cultural Institutions Trust Fund Grant Program

Grant Program Goals

The Arkansas Department of Parks, Heritage, and Tourism through the Division of Arkansas Heritage has set these goals for the Arkansas Cultural Institutions Trust Fund Grant Program:

- Further the purposes of the Division of Arkansas Heritage, including preservation and promotion of Arkansas's natural and cultural heritage
- Increase the ability of cultural institutions to preserve, promote and educate related to these items that are significant to the heritage of Arkansas

Who May Apply

The following are the types of museums and organizations that are eligible to apply:

- Nonprofit organizations located in the State of Arkansas that are open to the public or if the applicant is in the process of opening a new or modified facility, the applicant plans to be open to the public on a weekly basis. These organizations must acquire, conserve, research, communicate, or exhibit works of art, artifacts or works of cultural or historic significance, or related items significant to the heritage of Arkansas for the purposes of education, study, and enjoyment.

Examples of these types of nonprofit organizations are listed below.

- History Museums
- Military Museums
- Natural History Museums
- Art Museums
- Other museums that meet the criteria provided above

Evaluation Criteria

The criteria for the distribution of grant funds, includes, without limitation, the following factors:

1. Estimated economic and tourism impact of the project;
2. Availability of other project funding sources; and
3. Overall project cost

General Conditions

There are two general conditions for eligibility in the Arkansas Cultural Institutions Trust Fund Grant Program:

1. The Arkansas cultural institution is a nonprofit organization that acquires, conserves, researches, communicates, or exhibits works of art, artifacts or works of cultural or historic significance, or

related items significant to the heritage of Arkansas for the purposes of education, study, and enjoyment.

2. Grant awards are for major capital improvement projects that include construction of new or modified facility, permanent structural addition, change or the restoration of some aspect of a building utilized by an Arkansas cultural institution.

Additional Requirements

To be considered for Arkansas Cultural Institutions Trust Fund Grant Program, the applicant must meet the following requirements:

- Applicant must be located in the State of Arkansas
- Applicant must have tax exempt status as a 501(c)(3) organization with the IRS as a nonprofit organization
- Applicant has a formal and appropriate program of documentation and care for collections
- Applicant must be open to the public on a weekly basis or if the applicant is in the process of opening a new or modified facility, the applicant plans to be open to the public on a weekly basis.
- Applicant must agree to submit periodic progress reports as outlined in the contract and a final report at the completion of the project. Time and format of the report will be determined by the Arkansas Cultural Institutions Trust Fund Review Committee.

Eligible Expenses

Arkansas Cultural Institutions Trust Fund Grants can only be used to underwrite an eligible institutions' major capital improvement expenses. The following expenses are examples of major capital improvement projects:

1. Roof replacement
2. Structural remodeling of existing facility or additions to existing facility
3. Installing new heating, ventilation, and air systems
4. Major capital improvements to improve the accessibility for the disabled

Application Timeline and Availability

- Grant opportunity will be posted on the Division of Arkansas Heritage website at least 60 days before submission deadline. Updates will be made on Division of Arkansas Heritage website once funding is available. The website will allow interested parties to sign up for email notification updates. The website is <https://www.arkansasheritage.com/available-grants/division-of-arkansas-heritage-grants>.
- Deadline for revisions or additional material will be no later than 15 days after submission.
- Submission deadline will be included with grant guidelines at <https://www.arkansasheritage.com/available-grants/division-of-arkansas-heritage-grants>.

- Grant awards will be announced within 60 days of application submission deadline

Decision Process

Committee

The Arkansas Cultural Institutions Trust Fund Review Committee will include three members including (1) the director of the Division of Arkansas Heritage; (2) the director of the Division of Arkansas Tourism; and (3) a director of an accredited museum within the Division of Arkansas Heritage.

Recommendation

The recommendations of the Arkansas Cultural Institutions Trust Fund Committee will be submitted to the Secretary of the Department of Parks, Heritage, and Tourism for approval.

Factors Considered by Review Committee

In evaluating applications, the Arkansas Cultural Institutions Trust Fund Review Committee will evaluate the application and will consider the following factors:

1. The estimated economic and tourism impact of the project;
2. Availability of other project funding sources; and
3. Overall cost of the project.

In evaluating the application, the total project cost should be a minimum of \$7 million. Arkansas Cultural Institutions Trust Fund Review Committee (Committee) will consider the economic impact of the project including the impact upon the region where the Cultural Institution is located including, but not limited to, tax revenue generated by the project, number of visitors, jobs and businesses created, impact on existing businesses as well as overall tourism impact. The Committee can consider other factors in addition to the above referenced factors. As part of the application process, applicants will be allowed to submit documents and pictures to support their application.

Criteria for Distribution of Funds

The criteria for the distribution of grant funds, include, without limitation, the following factors:

1. Estimated economic and tourism impact of the project;
2. Availability of other project funding sources; and
3. Overall project cost.

To Apply

Applications will be submitted online. Guidelines and directions will be posted on the Division of Arkansas Heritage website at <https://www.arkansasheritage.com/available-grants/division-of-arkansas-heritage-grants>.

Application for the Arkansas Cultural Institutions Trust Fund Grant Program

This application will be completed and submitted online. Instructions will be posted at <https://www.arkansasheritage.com/available-grants/division-of-arkansas-heritage-grants>.

Applicants may attach documents and pictures to support application.

1. Name, address, county, and telephone number of applicant organization, website, email address and normal hours of operation.

2. Proposed Grant Period

The period during which grant funds will be spent and when the project will take place. Include a timeline for the proposed project. Grant funds shall be utilized within one year of receipt of funds. Awardee can request an extension of an additional year if the funds cannot be utilized during the one year time frame.

From _____
Month/Day/Year

To _____
Month/Day/Year

3. History of the Arkansas Cultural Institution

Provide a brief history of the Arkansas cultural institution, include information as to the date of establishment, the organization's mission statement, the focal point, and a brief overview of the contents of exhibits, collections, interpretation, and programming.

4. Description of Proposed Project

Provide specifics as to what is to be accomplished during the grant period. Include a list of numbered specific Work Elements. Work Elements should be organized to coincide with, and support Line Item Budget provided in below referenced item number seven (7) "Project Cost."

5. Describe the economic and tourism impact of the project.

6. Project Planning

Provide more information regarding the planning of the major capital improvement project. Applicant should attach photos, drawings, plans from architects, engineers, construction manager etc. If this is a renovation or rehabilitation project, include photos of areas requiring work.

7. Project Cost

Provide budget information regarding overall cost of the major capital improvement project.

- Include a detailed Line Item Budget.
- Organize headings to coincide with "Work Elements" section provided in above referenced number four (4) "Description of Proposed Project."
- Provide information regarding availability of other project funding sources, including other grant awards being pursued or received.

8. Target Audience

Identify the audience to be served by this project and explain how they will benefit. Include an estimate of the number of people to be served based on current museum visitor demographics if applicable.

9. Non-Profit Status

Provide evidence of non-profit status as a 501(c)(3) organization.

10. Board of Directors and Key Staff
List board of directors and key staff.

11. Project Director's name, address, email, and telephone number

Project Director

Address

Email Address _____

Telephone _____

12. Executive Director/President of Organization

Executive Director/President of Organization

Email Address _____

Telephone _____

Name of Organization

Date

Signature* Title (Print Name)

*Individual with legal authority to bind organization to the proposed project

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Parks, Heritage and Tourism

DIVISION Division of Arkansas Heritage

PERSON COMPLETING THIS STATEMENT Leslie Fiskien, Chief of Legislative Affairs

TELEPHONE NO. (501) 324-9586 **FAX NO.** (501) 324-9575 **EMAIL:** leslie.fiskien@arkansas.gov

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 Arkansas Cultural Institutions Trust Fund Act

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

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

Total _____ \$ 0.00

Total _____ \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

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

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

Total _____ \$ 0.00

Total _____ \$ 0.00

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

\$ 0 _____

\$ 0 _____

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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 _____

\$ 0 _____

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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.