

**QUESTIONNAIRE**  
**FOR FILING PROPOSED RULES WITH THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

**DEPARTMENT/AGENCY** Arkansas Department of Parks, Heritage and Tourism (with the Arkansas Department of Commerce's Arkansas Economic Development Commission and the Arkansas Department of Finance and Administration)  
**DIVISION** Tourism Division  
**DIVISION DIRECTOR** Secretary Stacy Hurst  
**CONTACT PERSON** Jim Andrews(General Counsel, ADPHT), Leslie Fisken (Chief of Legislative Affairs, ADPHT)  
**ADDRESS** 1100 North Street, Little Rock, AR 72201  
**PHONE NO.** (870) 918-4756, (501) 944-1492      **FAX NO.** (501)324-9154  
**E-MAIL** jim.andrews@arkansas.gov, leslie.fisken@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Secretary Stacy Hurst  
**PRESENTER E-MAIL** stacy.hurst@arkansas.gov

**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
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5th Floor  
Little Rock, AR 72201

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1. What is the short title of this rule? Business Interruption Grant Program for the Arkansas Service and Hospitality Industries

2. What is the subject of the proposed rule? Grant program for the service and hospitality industry

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? This Rule is effective upon approval under § 10-3-309 and shall be in effect for 120 days.

When does the emergency rule expire? 120 days from approval by executive subcommittee

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 rule.

Business Interruption Grant Program for the Arkansas Service and Hospitality Industries.  
See attached summary.

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.

Governor Asa Hutchinson issued Executive Order 20-03 on March 11, 2020 declaring a public health emergency due to the Coronavirus 2019 (COVID-19) pandemic and directing the Arkansas Department of Health (ADH) to adopt necessary public health measures for mitigation of the public health emergency. These measures resulted in the temporary closure of, as well as reduced operating capacity for, certain Arkansas businesses. Certain Arkansas businesses in the personal care, tourism, travel, recreation, and hospitality industries require additional economic assistance to help maintain their economic viability and their vital support for the overall Arkansas economy.

Based on the forgoing economic development need, and pursuant to the authority granted under Ark. Code Ann. § 15-4-209(a)(1) and § 15-4-209(b)(5), the Arkansas Economic Development Commission (AEDC) is promulgating this emergency rule in collaboration with the Arkansas Department of Parks, Heritage and Tourism (ADPHT) and the Arkansas Department of Finance and Administration (DFA).

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

Together, the Arkansas Department of Parks, Heritage and Tourism (ADPHT), Arkansas Department of Commerce's Arkansas Economic Development Commission (AEDC), and the Arkansas Department of Finance and Administration (DFA) seek to create and administer a \$50 million grant program to provide much needed economic assistance to certain Arkansas businesses. The program will be funded by the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The businesses eligible for this grant will be those in the personal care, tourism, travel, recreation, and hospitality industries most directly impacted by necessary mitigation measures and the ongoing pandemic.

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

<https://www.arkansasedc.com/data-reports/rules>

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

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Place:** \_\_\_\_\_

**10. When does the public comment period expire for permanent promulgation? (Must provide a date.)**

Not applicable

**11. What is the proposed effective date of this proposed rule? (Must provide a date.)**

This Rule is effective upon approval under § 10-3- 309 and shall be in effect for 120 days unless later replaced by a permanent rule.

**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. Unknown about public hearing at this time. This may be updated in the future.**

**13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). We will provide you with a file marked copy when received from SOS.**

**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.**

The Department does not know at this time but will update BLR and ALC if the Department receives any comments.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT/AGENCY** Arkansas Department of Parks, Heritage and Tourism (with the Arkansas Department of Commerce's Arkansas Economic Development Commission and the Arkansas Department of Finance and Administration)

**DIVISION** Tourism Division

**DIVISION DIRECTOR** Secretary Stacy Hurst

**CONTACT PERSON** Jim Andrews (General Counsel, ADPHT), Leslie Fiskin (Chief of Legislative Affairs, ADPHT)

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**E-MAIL** jim.andrews@arkansas.gov, leslie.fiskin@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**

Business Interruption Grant Program for the Arkansas Service and Hospitality Industries

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?**

Not applicable

**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?**

Not applicable

**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.**

Not applicable

**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.**

Not applicable

**Current Fiscal Year**

**Next Fiscal Year**

\$ \_\_\_\_\_

\$ \_\_\_\_\_

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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.

**BUSINESS INTERRUPTION GRANT PROGRAM**  
**for the**  
**ARKANSAS SERVICE AND HOSPITALITY INDUSTRIES**

**ARKANSAS DEPARTMENT OF PARKS, HERITAGE AND TOURISM**  
**ARKANSAS DEPARTMENT OF COMMERCE, ARKANSAS ECONOMIC**  
**DEVELOPMENT COMMISSION**

**ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION**

**BUSINESS INTERRUPTION GRANT PROGRAM FOR THE ARKANSAS SERVICE  
AND HOSPITALITY INDUSTRIES EMERGENCY RULES**

**STATUTORY AUTHORITY**

Governor Asa Hutchinson issued Executive Order 20-03 on March 11, 2020 declaring a public health emergency due to the Coronavirus 2019 (COVID-19) pandemic and directing the Arkansas Department of Health (ADH) to adopt necessary public health measures for mitigation of the public health emergency. These measures resulted in the temporary closure of, as well as reduced operating capacity for, certain Arkansas businesses. While a variety of economic assistance programs through federal and state programs have been available to affected businesses, certain Arkansas businesses in the personal care, tourism, travel, recreation, and hospitality industries require additional economic assistance to help maintain their economic viability and their vital support for the overall Arkansas economy.

Based on the forgoing economic development need, and pursuant to the authority granted under Ark. Code Ann. § 15-4-209(a)(1) and § 15-4-209(b)(5), the Arkansas Economic Development Commission (AEDC) is promulgating this emergency rule in collaboration with the Arkansas Department of Parks, Heritage and Tourism (ADPHT) and the Arkansas Department of Finance and Administration (DFA).

**PROGRAM OBJECTIVE**

The program will provide a direct grant opportunity to Arkansas small businesses having 250, or fewer, full time employees located in Arkansas for expenses associated with COVID-19 mitigation and for certain listed business interruption expenses due directly to local, state, or federal government COVID-19 directives and arising through no fault of the business. The grant program will provide first-time, or otherwise supplemental, financial assistance for certain eligible cash business expenses incurred as a direct result of COVID-19 mitigation or for certain listed ordinary business expenses incurred by an eligible business as a direct result of a government-mandated business closure or restriction. The program will utilize funds provided to the state of Arkansas through the federal CARES Act.

**DEFINITIONS**

"Applicant" for purposes of this program, is defined as an Eligible Business or a representative of an Eligible Business that completes and submits an Application for the program.

"Application" for purposes of this grant program, is defined as the online application form which must be completed in its entirety with all required attachments by an Eligible Business to be considered for this program.

"Business Interruption" for purposes of this grant program, is defined as disruptions of regular business operations resulting from required or voluntary closure related to or mitigation

measures taken in response to COVID-19 which occurred on March 1, 2020 through September 30, 2020.

“Consultants” for purposes of this grant program, are defined as a private company engaged by the Arkansas Department of Parks, Heritage and Tourism, Arkansas Department of Commerce’s Arkansas Economic Development Commission or the Arkansas Department of Finance and Administration for the purpose of developing an online grant application including the transaction administration, design, development, data access, and program guidance to the above referenced state agencies.

“CARES Act” for purposes of this grant program, means the federal Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136).

“COVID-19” for purposes of this grant program, is defined as the Coronavirus disease of 2019 and the resulting pandemic.

“Economic Uncertainty” for purposes of this grant program, economic uncertainty is defined as conditions, due to the impact of COVID-19, where the reasonable financial basis upon which the continuing long-term operations of the business are uncertain if grant program assistance is not provided.

“Eligible Business” under this grant program, means a for-profit corporation, partnership, sole proprietorship (including independent contractors), limited liability company, joint venture or non-profit 501(c)(3) organization that meets the following criteria:

- A. Operates primarily within the Arkansas personal care, tourism, travel, recreation, hospitality or related industries;
- B. Was established on or before March 1, 2020;
- C. Has an established tax identification number in the state of Arkansas;
- D. Current Economic Uncertainty makes this assistance necessary to support the ongoing operations of the Applicant;
- E. If formally organized, is incorporated under the laws of Arkansas or is registered to do business in Arkansas with the Arkansas Secretary of State and, in any case, is listed as being in “Good Standing.” If not incorporated, a business/professional license, sales tax permit, utility bill or bank statement in the name of the business is required as supporting documentation that the business is a bona fide business;
- F. Is headquartered in Arkansas or has employees working in Arkansas;
- G. Employed an average of two hundred fifty (250), or fewer, Full Time Arkansas Employees per Eligible Business as of September 30, 2020;
- H. Must either have:
  - a. Customers and/or employees physically coming to their Arkansas business premises;  
or
  - b. Must conduct business on customer premises in Arkansas;
- I. Is not under a bankruptcy order and does not have a pending bankruptcy filing at the time the Application is submitted. An Applicant that files for bankruptcy while the Application is pending shall notify the grant program and withdraw its Application under the program.

- J. Does not presently have any tax liens with respect to any unpaid tax owing to the State of Arkansas except for those businesses that have applied for and received a repayment plan from the State of Arkansas and are not in default of that payment plan; and
- K. Eligible Businesses shall not include, without limitation, the following:
  - a. Government entities and quasi-governmental entities such as Government-owned non-profits; and
  - b. Annual and seasonal indoor and outdoor festivals such as county fairs and carnivals

“Eligible Expenses” under this grant program are defined as costs incurred by an Eligible Business, as defined in this rule, due to public health measures or Business Interruption. These expenses may consist of the following:

- A. Business expenses incurred as a direct result of COVID-19 mitigation; or
- B. Certain ordinary business expenses incurred by an Eligible Business as a direct result of a government mandated business closure or restriction due to COVID-19; or
- C. Business expenses incurred due to diminished capacity of operations that are likely to continue until health conditions allow functioning at full capacity.

Eligible Expenses covered under this grant include the following:

- A. Personal Protective Equipment (PPE) and other related expenses for purchases between March 1, 2020 and September 30, 2020 reasonably necessary to comply with Centers for Disease Control and Prevention (CDC) guidelines or Arkansas Department of Health (ADH) guidelines with proof of purchase via a receipt, paid invoice, or payroll record. See Exhibit A for pre-approved list.
- B. Rent or mortgage interest payments on real property incurred between March 1, 2020 and September 30, 2020 with a proof of payment via receipt or cancelled check.
- C. Other expenses reasonably necessary to keep the Eligible Business operational, and to safely meet local, state, and federal COVID-19 mitigation requirement with proof of payment via receipt, paid invoice, or cancelled check including, without limitation:
  - a. Utility expenses (e.g., water, sewer, gas, electricity)
  - b. Telephone and internet service (and other costs to redeploy operations to telework)
  - c. Transportation costs
  - d. Operating and professional licenses
  - e. Franchise fees
  - f. Business insurance (e.g., business general liability insurance, business auto insurance)
  - g. Maintenance and sanitation expenses
  - h. Remarketing the resumption of activities and steps taken to ensure a safe experience
  - i. Payroll costs and expenses
  - j. Expenses associated with COVID-19 mitigation by workforce realignment (e.g., staggered shifts or staggered office days, etc.)
  - k. Technology costs necessary to shift to virtual operations (e.g., virtual meetings, e-commerce sales, telework etc.)
  - l. Professional services procured (e.g., design & construction) of work environments necessary to mitigate the threat of COVID-19 (e.g., installation of HVAC filtration systems, partition installation, redesign of workspaces, etc.)

- m. Interest on any business debts that were incurred from March 1, 2020 to September 30, 2020
- D. Expenses that are not considered Eligible Expenses for reimbursement under this grant program include, without limitation:
  - a. Taxes
  - b. Non-cash expenses (e.g., depreciation expense)
  - c. Lost profits
  - d. Lost Revenue
  - e. Entertainment and lobbying expenses
  - f. Goods and services not used for business purposes
  - g. Damages that have been, or are expected to be, covered by insurance
  - h. Costs that have been, or are expected to be, reimbursed by any other local, state, or federal government program or by any private programs
  - i. Value of any products or services that were donated to, or by, the Applicant
  - j. Bonuses for highly compensated employees earning in excess of \$100,000 annually, other than that payable for hazard pay or overtime pursuant to COVID-19 mitigation
  - k. Severance pay and benefits
  - l. Payments to shareholders except for regular compensation payments consistent with the historical practices of business.
  - m. Legal expenses or settlements, fines, and penalties
  - n. Other expenses as may be deemed ineligible under guidance, guidelines, rules, regulations, or other criteria, all as may be amended from time to time from the U.S. Department of Treasury regarding the use of funds appropriated under the CARES Act
  - o. Other expenses as may be deemed ineligible in accordance with program rules in the sole combined judgment of the grant program’s Review Committee
- E. All Eligible Expenses must be utilized to cover expenses incurred by the Eligible Business in the state of Arkansas.
- F. Any grant award received must be used in Arkansas.
- G. To the extent a business has received, or may receive, insurance proceeds covering any of these Eligible Expenses under a Business Interruption insurance policy, such payments, or expected payments, must be deducted from the Eligible Expenses claimed by the Applicant.

“Full Time Arkansas Employee” for purposes of this grant program, is defined as an employee of the business that works an average of at least 30 hours per week at a business location in Arkansas.

“Minority Business Enterprise” for purposes of this grant program, is defined as a business where at least 51 percent of the business owners are a minority as defined in Ark. Code Ann. § 15-4-303 (2).

“Review Committee” for purposes of this grant program, is defined as the Secretaries from the Arkansas Department of Parks, Heritage and Tourism, Arkansas Department of Commerce’s Arkansas Economic Development Commission, and the Arkansas Department of Finance and Administration plus one additional designee from each Department who will make the final grant decisions based on quantitative and qualitative data prepared by the Consultants.

“Women-owned Business Enterprise” for purposes of this grant program, is defined as a business where at least 51 percent of the business owners are women.

## **APPLICATION FOR GRANT FUNDS**

- A. Required Application documentation includes, without limitation.
  - 1. Driver’s license of authorized business representative completing the Application;
  - 2. Completed and signed W9 for the Eligible Business;
  - 3. Taxpayer identification number of the business
  - 4. Certificate of good standing from the Arkansas Secretary of State (dated within last 30 days) or other documentation for unincorporated businesses as noted above; and
  - 5. Documentation of sales tax paid to the state of Arkansas by Eligible Business for March 1 through September 30 of the years 2019 and 2020. The online Application provides that the Eligible Business can allow DFA to provide those tax records for review for purposes of this Application. For new Eligible Businesses that existed prior to March 1, 2020, but do not have requested 2019 sales tax data, other financial information may be requested and reviewed such as remittance of sales tax per month since in operation will be considered in determining economic impact. If the business does not collect sales tax, other data may be requested by the Review Committee for consideration of grant awards.
- B. Eligible Businesses will be asked to provide North American Industry Classification System (NAICS) code in the online Application. This information will assist in the analysis and review of the grant Applications.
- C. Only one Application per Eligible Business is allowed under this grant program.
- D. If the Applicant has previously received any local, state, or federal government assistance or any private or charitable assistance for these types of expenses, such amounts must be deducted from the Applicant’s claim because the eligible expense for these items is strictly limited to unreimbursed amounts.
- E. This application period will be open for ten calendar days and notification of the grant program will be advertised statewide in advance and during the application period.
- F. This is not a first come, first served grant program. Once the grant Application deadline has passed, available funds will be awarded to approved Applicants in accordance with these rules.
- G. Once the grant Application deadline has passed, available funds will be apportioned to approved Applicants on an equitable basis.
- H. All Applications will be accepted online. Paper Applications cannot be accepted, and Applications via telephone cannot be accepted.
- I. As a part of the Application submission process, all Applicants must electronically agree to be bound by all of the legal terms and conditions of the grant program.
- J. All grant fund recipients must enter into a written grant agreement contract with the Arkansas Economic Development Commission (AEDC) that will set forth all the legal terms and conditions of the grant award.

- K. Applicants will be required to certify, under penalty of perjury and other civil and criminal penalties, that the information contained in their Application package is truthful, complete, and accurate.
- L. Applications will only be considered when a complete Application is submitted with all required attachments. Completeness of an Application shall be determined in the sole discretion of AEDC or its designee.

### **GRANT AWARDS**

- A. Grant amounts will be based on criteria established by the Review Committee that will consider the total amount of eligible reimbursable expenses, overall impact of COVID-19 to the industry of the business, and the differential in the sales tax paid by the business during the time periods of March 1 through September 30 in 2019 and 2020.
- B. One metric that will be considered by the Review Committee to determine economic impact to the Eligible Business will be sales tax data. For Eligible Businesses that do not collect and remit sales taxes or Eligible Businesses that have been in business as of March 1, 2020 for less than one year, other data provided by the Applicant such as remittance of sales tax per month since in operation will be considered in determining economic impact. If the business does not collect sales tax, other data may be requested by the committee for consideration of grant awards.
- C. Grant awards will not exceed \$250,000 per Application.
- D. Grant claims and awards are non-transferable to other individuals or entities and subject to state and federal tax laws.

### **ADDITIONAL CONDITIONS FOR THE GRANT PROGRAM**

- A. In the event an audit reveals an improper payment was claimed and paid, a claw back provision will be triggered under which payment granted to a recipient must be promptly returned, either in full or in part, to the State of Arkansas.
- B. This program is contingent upon the availability of funds as directed by the CARES Act Steering Committee of Arkansas as federal funds are appropriated by the Arkansas General Assembly to the Arkansas Department of Commerce's AEDC.
- C. Applicability of the Arkansas Freedom of Information Act.  
AEDC is a public entity of the State of Arkansas and is subject to the requirements of the Arkansas Freedom of Information Act, Ark. Code Ann. § 25-19-101 et. seq. (FOIA). AEDC must disclose to a FOIA requestor information concerning the Applicant when, in the opinion of AEDC's legal counsel, AEDC is legally required to disclose the requested information. Such may include, without limitation, any financial information, operational information, franchise fees, and vendor information. When submitting claims under this grant program, Applicants should carefully consider the risks associated with the information they provide becoming public information and may, accordingly, opt to claim reimbursement for only some certain Eligible Expenses.
- D. The threshold goal for this grant is to direct at least 15 percent of the funds to Minority Business Enterprises and Women-owned Business Enterprises. If there are not sufficient Applications from Minority Business Enterprises and Women-owned Business Enterprises, the surplus funds will be directed to the general fund of the grant for distribution.

- E. Not all who apply for a grant will be approved. The information provided in this document does not create any obligation by any department or agency of the state of Arkansas to provide any grant funding to any Applicant.
- F. All Applicants will be required to disclose information required by Executive Order 98-04 and the rules related thereto. Grant decisions may be affected by these types of disclosures.
- G. The grant program is a discretionary incentive program offered by a joint program administered through the ADPHT, Arkansas Department of Commerce's AEDC, and DFA.

**EXHIBIT A**  
**ITEMS APPROVED BY THE ARKANSAS CARES ACT STEERING COMMITTEE**  
**FOR PURCHASE**

- N95 Masks
- KN95 Masks
- Surgical Masks
- Cloth Masks
- Isolation Gowns
- Gloves
- Face Shields
- Goggles/Safety Glasses
- No Touch Thermometers
- Forehead Thermometers
- Ear Thermometers
- Thermometer Covers
- Wristbands (paper)
- Batteries
- Basic First Aid Kit
- Rubbing Alcohol
- Hand Sanitizer
- Siphon Pump (for Hand Sanitizer in drum or bucket)
- Plastic Bottles (for Hand Sanitizer in drum or bucket)
- Sanitizing Sprays
- Sanitizing Cleaners
- Sanitizing Soaps
- Sanitizing Wipes
- Bleach
- Mop Bucket
- Mop Handle
- Mop
- Trash Cans with Lids
- Garbage Bags
- Clear Shower Curtain (used to separate customer from employee)
- Shower Curtain Rods (used to separate customer from employee)

**BUSINESS INTERRUPTION GRANT PROGRAM**  
**for the**  
**ARKANSAS SERVICE AND HOSPITALITY INDUSTRIES**

**ARKANSAS DEPARTMENT OF PARKS, HERITAGE AND TOURISM**  
**ARKANSAS DEPARTMENT OF COMMERCE, ARKANSAS ECONOMIC**  
**DEVELOPMENT COMMISSION**

**ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION**

# **BUSINESS INTERRUPTION GRANT PROGRAM FOR THE ARKANSAS SERVICE AND HOSPITALITY INDUSTRIES**

## **EXECUTIVE SUMMARY**

Governor Asa Hutchinson issued Executive Order 20-03 on March 11, 2020 declaring a public health emergency due to the Coronavirus 2019 (COVID-19) pandemic and directing the Arkansas Department of Health (ADH) to adopt necessary public health measures for mitigation of the public health emergency. These measures resulted in the temporary closure of, as well as reduced operating capacity for, certain Arkansas businesses. While a variety of economic assistance programs through federal and state programs have been available to affected businesses, certain Arkansas businesses in the personal care, tourism, travel, recreation, and hospitality industries require additional economic assistance to help maintain their economic viability and their vital support for the overall Arkansas economy.

Together, the Arkansas Department of Parks, Heritage and Tourism (ADPHT), Arkansas Department of Commerce's Arkansas Economic Development Commission (AEDC), and the Arkansas Department of Finance and Administration (DFA) seek to create and administer a \$50 million grant program to provide much needed economic assistance to certain Arkansas businesses. The program will be funded by the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The businesses eligible for this grant will be those in the personal care, tourism, travel, recreation, and hospitality industries most directly impacted by necessary mitigation measures and the ongoing pandemic.

AEDC will receive the CARES Act appropriation and will be the disbursing agency of record. ADPHT will serve as the operational project manager of the grant program and will assist and advise AEDC. DFA will administer the application and expense approval processes as well as authorizing and distribution of the payments.

The program will follow the U.S. Department of Treasury guidance in the use of CARES Act funds. Funds will not be used as a means of revenue replacement but will only be used to reimburse eligible business expenses incurred between March 1, 2020 and September 30, 2020.

Eligible businesses will be those that meet the requirements provided in the rules of the grant. Eligible expenses will consist of those incurred as mitigation in direct response to COVID-19 or enumerated ordinary operating expenses during the reimbursable period. Any expenses for which an eligible business has already received any form of assistance will not be eligible. However, an eligible business may receive supplemental funding through this grant program to the extent prior assistance was not sufficient to cover all of an eligible expense.

Eligible businesses will apply and submit their claims and supporting documentation online through a grant application portal. Applicants will be required to attest to the truthfulness and accuracy of the information submitted and be subject to a claw back provision should there be any errors.

Consultants will assist in automating the quantitative analysis of, and providing qualitative analysis for, all applications received to ensure the accuracy and timeliness of disbursements. The costs for these services will be paid from the appropriation granted to this program. A review committee (Review Committee) comprising the Secretaries from the ADPHT, DFA, and the Arkansas Department of Commerce plus one additional designee from each of these Departments will review the quantitative and qualitative data prepared by these consultants and make the final grant decisions in regard to that data.

The amounts awarded to successful applicants will be disbursed by December 30, 2020, to avoid possible forfeiture of these CARES Act funds by the state.



STATE OF ARKANSAS  
BUREAU OF  
LEGISLATIVE RESEARCH

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## Memorandum

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**TO:** Members, ALC – Executive Subcommittee

**CC:** Marty Garrity, Director, Bureau of Legislative Research;  
Jessica Sutton, Administrator, Administrative Rules Review Section, Legal Services  
Division

**FROM:** Rebecca Miller-Rice, Legislative Attorney, Administrative Rules Review Section,  
Legal Services Division

**DATE:** October 12, 2020

**SUBJECT:** Legal Authorization for the Emergency Promulgation of the Business Interruption  
Grant Program for the Arkansas Service and Hospitality Industries Emergency Rules  
by the Arkansas Department of Parks, Heritage, and Tourism, Arkansas Economic  
Development Commission, and Arkansas Department of Finance and Administration

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In a collaborative effort, the Arkansas Department of Parks, Heritage, and Tourism (“ADPHT”), the Arkansas Economic Development Commission (“AEDC”), and the Arkansas Department of Finance and Administration (“ADFA”) seek legislative review and approval of the Business Interruption Grant Program for the Arkansas Service and Hospitality Industries Emergency Rules. The agencies seek to create and administer this \$50 million grant program, which will be funded by the federal Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and will provide economic assistance to eligible businesses in the personal care, tourism, travel, recreation, and hospitality industries. According to the agencies, the AEDC will receive the CARES Act appropriation and will be the disbursing agency of record; the ADPHT will serve as the operational project manager of the program and assist and advise the AEDC; and the ADFA will administer the application and expense approval processes, as well as authorize and distribute payments. Pursuant to Arkansas Code Annotated § 15-4-209, the AEDC, in accordance with state and federal law, shall administer grants, loans, cooperative agreements, tax credits, guaranties, and other incentives, memoranda of understanding, and conveyances to assist with economic development in the state, and it may promulgate rules necessary to implement the programs and services it offers. *See* Ark. Code Ann. § 15-4-209(a)(1), (b)(5). It is on this authority that these agencies rely for the promulgation of these rules.