



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Fire Commission

RULE TYPE: Legislative

TITLE-SERIES: 87-10

RULE NAME: Volunteer and Part-Volunteer (Part Paid)
Fire Department Equipment and Training
Grant Funding Disbursement

CITE AUTHORITY: W. Va. Code §15A-11-11.

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Brandolyn N Felton-Ernest -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

**TITLE 87
LEGISLATIVE RULE
STATE FIRE COMMISSION**

**SERIES 10
VOLUNTEER FIRE DEPARTMENT AND PART-VOLUNTEER (PART-PAID) FIRE
DEPARTMENT EQUIPMENT AND TRAINING GRANT FUNDING DISBURSEMENT**

§87-10-1. General.

1.1. Scope. -- This rule establishes the Fire Service Equipment and Training Grant Funding program for WV Volunteer Fire Departments relating to authorizing the State Fire Commission to establish and administer a grant funding program which implements opportunities and standards to impose a grant funding program for volunteer firefighting that address problems facing volunteer fire departments in the state, including issues related to equipment needs, maintenance, and training.

1.2. Authority. -- This legislative rule is issued under authority of W. Va. Code §15A-11-11.

1.3. Filing Date. -- ~~May 5, 2022.~~

1.4. Effective Date. -- ~~August 1, 2022.~~

1.5 Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, ~~2027~~ 2032.

§87-10-2. Definitions.

2.1. “Active Members” means an individual who performs the function of fire prevention and suppression, or vehicle and machinery extrications when responding to emergency situations. Depending on the level(s) of training the active member has completed, active members may also perform the tasks and duties of hazardous materials response and mitigation, technical rescue, emergency medical services, and any other duties that a specialized support member may provide if so trained.

2.2. “Approved Curriculum” means a curriculum for training approved by the West Virginia State Fire Commission.

2.3. “Chief” means the highest-ranking fire line officer in charge of a fire department.

2.4. “Department” means any volunteer or part-volunteer (part-paid) fire fighting response organization regulated by the West Virginia State Fire Commission. Department includes a volunteer fire company, part-volunteer (part-paid) fire company or department, or volunteer fire brigade, provided that: private or corporate fire brigades are exempt from this rule.

2.5. “Firefighter” means any active member of a fire department.

2.6. “Fire Commission” means the West Virginia State Fire Commission.

2.7. “Grantor” means a state spending unit awarding a state grant.

2.8. “Grantee” means any entity, to exclude individuals, receiving a state grant, including a state

spending unit, local government, corporation, partnership, association, or other legal entity.

2.9. “NIMS” means the National Incident Management System.

2.10. “Part-Volunteer (part-paid) Fire Department” means a department where one or more of the firefighters receive compensation for working as a firefighter on a full-time, “per call”, or an hourly basis and does not include those defined as paid firefighters as set forth and described in W. Va. Code §33-3-14d(c)(2). In addition to paid firefighters, the department also employs volunteer members.

~~2.40~~ 11. “Person” means business, corporation, partnership, individual, or any other entity submitting a curriculum for approval.

~~2.44~~ 12. “Report” means an engagement, such as an agreed upon procedures engagement or other attestation engagement, performed and prepared by a certified public accountant to test whether state grants were spent as intended. The term “report” does not mean a full scope audit or review of the person receiving state funds.

~~2.42~~ 13. “State grant” means funding provided by a state spending unit, regardless of the original source of the funds, to a grantee upon application for a specific purpose. The term "state grant" does not include: (A) Payments for goods and services purchased by a state spending unit; (B) compensation to state employees and public officials; (C) reimbursements to state employees and public officials for travel or incidental expenses; (D) grants of student aid; (E) government transfer payments; (F) direct benefits provided under state insurance and welfare programs; (G) funds reimbursed to a person for expenditures made for qualified purposes when receipts for the expenditures are required prior to receiving the funds; (H) retirement benefits; and (I) federal pass-through funds that are subject to the federal Single Audit Act Amendments of 1996, 31 U.S.C. § 7501, et seq. The term "state grant" does not include formula distributions to volunteer and part-volunteer fire departments and fire companies made pursuant to §33-3-14d, §33-3-33, or §33-12C-7 of this code and does not include money received from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.

§87-10-3. Procedures.

3.1. All applications pertaining to fire service equipment and training shall be based upon professional standards adopted by the State of West Virginia and the West Virginia State Fire Commission to include W. Va. Code §8-15-8a and §8-15-8b.

3.2. The State Fire Commission may limit the number of participating volunteer fire departments and part-volunteer (part-paid) fire departments in the program due to available funding.

3.3. In order for a volunteer fire department to be eligible for participation in the Program, they must meet and maintain requirements to be a recognized volunteer fire department and they must obtain the required application, complete the form, and apply to the WV State Fire Commission for approval consideration. This application includes the completion of a Letter of Inquiry, and, based on receipt and acceptance of the Letter of Inquiry by the SFMO, an invitation to complete the Volunteer Fire Service Grant Funding Application.

3.4. Grant funds may only be awarded for training and equipment issues and may only be used to pay for what has been approved by the Fire Commission. Any other use is unauthorized.

3.5. Any department applying for grant funds through this program must:

3.5.1. Provide an Outline, including a listing of how the department has already attempted to fix the solution without the grant funds. related to the areas of training and fire service equipment efforts, and how this specific grant funding can be a help in ultimately achieving the department's overall goals.

§87-10-4. Grant Considerations.

4.1. Grant awards and disbursements will vary but typically, will not exceed \$10,000. The Commission reserves the right to award a grant more than this amount depending on public safety, and funds availability. Grant requests may be granted in part, in full, or denied, depending on circumstance, public safety needs, and funds availability. The submission of an application in no way guarantees that funds will be awarded to the requesting entity.

4.1.1. Grant requests, should specifically ask for a specific dollar amount, along with any documentation, and a detailed description as to how the award of the grant will benefit the department and the community it serves.

4.2. To be considered for funding, a department must complete and provide a grant application. The grant application request must be submitted by the Fire Chief of the department and include the following information:

4.2.1. Name of department, street address, town/city, state, and zip code.

4.2.2. Department size (Number of Members).

4.2.3. The population of the departments primary and secondary response areas.

4.2.4. The annual number of emergency and nonemergency calls the department responds too.

4.2.5. An accounting of the revenues received by the department from federal, state, county, municipal, local, and other sources.

4.2.6. The department's assets, expenditures, and other liabilities, including whether the fire company or department has availed itself of available statewide contracts.

4.2.7. Type of grant -- training and/or equipment.

4.2.8. Estimated grant funding the department is requesting.

4.2.9. Description of how the grant will be utilized and timeline for implementation.

4.2.10. Why the department is requesting this grant, including challenges the department faces.

4.2.11. What steps have been taken and/or commitments made by the department/jurisdiction to try to meet this need of the department.

4.2.12. Indicate if the department has applied for similar funding from other sources- private, public, federal, state, county, etc. These must be listed on the application. Also, a reference must be made on the application for any other sources being approached for financial support of this project.

4.2.13. Contact information (Name, phone number, email, and rank of the head of the department).

4.3. The Commission will establish a committee of its members to review will review the grant application, and to make a recommendation to the full Commission. If the application meets the criteria described, and the Commission is considering the award of funds, the Department will be contacted with further instructions on how to complete the remaining grant requirements. As a part of the grant process, a phone interview may be required with the department's leadership a part of the application process. No department shall be eligible for a grant if that said department is found to be ineligible by the Legislative Auditor.

~~4.4. The State Fire Commission will make grants based on any submittals received for Fiscal Year 2021, based on the amount of money in the established fund pursuant to the below deadlines:~~

~~4.4.1. April 10, 2021 of every year -- deadline to receive pending completed applications (for reviewed and vetted applications only).~~

~~4.4.2. May 31, 2021 of every year -- deadline delivery of notification of Fire Departments who will be awarded grants for FY 2021.~~

4.54. ~~Beginning in Fiscal Year 2022 and thereafter;~~ the The State Fire Commission will make grants based on a fiscal year (July 1 to June 30) based on the amount of money in the established fund pursuant to the below deadlines:

4.54.1. September 15 of every year -- deadline to submit a completed application (for reviewed and vetted applicants only).

4.54.2. By October 15 of every year -- final decisions made; all applicants contacted.

4.54.3. By November 15 of every year -- grants awarded.

4.65. In the case of emergency grant requests as the result of natural or manmade disasters, decisions will be made on a rolling basis.

4.76. If the Commission, once the entire application process is complete, votes to award grant funds to a department, a disbursement will be made from the grant funding account. The disbursement will be sent by certified mail to the fire department based on a fire equipment request; or directly to the fire service training provider, for any grant request pertaining to training.

4.87. All grant disbursements that are considered will be based on recently paid purchases of fire service equipment and/or maintenance of existing fire service equipment; or fire service training that has been either paid or training completed by the fire department with a pending invoice. Either shall be required and provided as proof of pending payment from the volunteer fire department.

4.98. All grant disbursements shall be made by the State Treasurer from the Fire Equipment and Training Fund. Disbursements shall be made by the State Treasurer based on notification from the State Fire Commission of grant awardees selection and approval of their grant application.

4.409. The fire commission shall, in the manner designated by the Legislative Auditor, notify the Legislative Auditor of the maximum amount of funds to be disbursed, the identity of the grantee authorized to receive the funds, the grantee's fiscal year and federal employer identification number, and the purpose and nature of the state grant, within 30 days of making the state grant, or authorizing the disbursement of the funds, whichever is later.

§87-10-5. Grant Expenditure Reporting.

5.1. The State Fire Commission, or the State Fire Marshal, whichever is administering the state grant, shall notify the grantee of the reporting requirements set forth in this section.

5.2. All grantors awarding state grants shall, prior to awarding a state grant, take reasonable actions to verify that the grantee is not barred from receiving state grants pursuant to this section. The verification process shall, at a minimum, include:

5.3. A requirement that the grantee seeking the state grant provide a sworn statement from an authorized representative that the grantee has filed all reports and sworn statements of expenditures for state grants received as required under this section; and

5.4. Confirmation from the Legislative Auditor by the grantor that the grantee has not been identified as one who has failed to file a report or sworn statement of expenditures under this section. Confirmation may be accomplished by accessing the computerized database provided in subsection (e) of this section.

5.5. If any report or sworn statement of expenditures submitted pursuant to the requirements of this section provides evidence of a reportable condition or violation, the grantor shall provide a copy of the report or sworn statement of expenditures to the Legislative Auditor within 30 days of receipt by the grantor.

5.6. The grantor shall maintain copies of reports and sworn statements of expenditures required by this section and make the reports or sworn statements of expenditures available for public inspection, as well as for use in audits and performance reviews of the grantor.

5.7. An audit of state grant funds may be authorized at any time by the Joint Committee on Government and Finance to be conducted by the Legislative Auditor at no cost to the grantee.

5.8. Grantees are reminded that ~~any grantee who files a~~ filed fraudulent sworn statement of expenditures ~~under subsection (b) of the~~ pursuant to W. Va. Code ~~§12-14-4b~~ 12-4-14, ~~a fraudulent sworn statement under subsection of this §12-14-4b, section 12-4-14 et seq.,~~ or a fraudulent report ~~under this §12-14-4b~~ filed pursuant to W. Va. Code §12-4-14, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.