

Dear Senators PATRICK, Guthrie, Ward-Engelking, and
Representatives HARTGEN, Anderson, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Commerce:

IDAPA 28.02.03 - Rules of the Idaho Regional Travel and Convention Grant Program - Proposed
Rule (Docket No. 28-0203-1802).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/01/2018. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/03/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee

FROM: Principal Legislative Drafting Attorney - Ryan Bush

DATE: October 15, 2018

SUBJECT: Department of Commerce

IDAPA 28.02.03 - Rules of the Idaho Regional Travel and Convention Grant Program - Proposed Rule (Docket No. 28-0203-1802)

Summary and Stated Reasons for the Rule

The Department of Commerce submits notice of proposed rulemaking at IDAPA 28.02.03 - Rules of the Idaho Regional Travel and Convention Grant Program. The proposed rule incorporates a temporary rule that was adopted in March 2018. Specifically, this rulemaking revises the program intent to include tourism marketing; provides for allowable administrative expenses; and makes edits that the Department claims are for housekeeping purposes.

Negotiated Rulemaking / Fiscal Impact

The Department states that various parties were involved in the formulation of the rule. There is no fiscal impact associated with this rulemaking.

Statutory Authority

The proposed rule appears to be within the statutory authority granted to the Department in Section 67-4702, Idaho Code.

cc: Department of Commerce
Bobbi-Jo Meuleman

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 28 – DEPARTMENT OF COMMERCE

28.02.03 – RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 28-0203-1802

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-4702, 67-4715, and 67-4717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Department of Commerce adopted a temporary rule on March 2, 2018, to define and clarify allowable costs of the Idaho Regional Travel and Convention Grant Program so that the program would continue to operate without interruption. This proposed rule implements the temporary rule without change and provides for other minor rule edits for housekeeping purposes.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is zero fiscal impact. Administrative costs remain at 10% of the grant award, capped at \$25,000. There is no proposed change to the 10% or the cap of \$25,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(3), Idaho Code, negotiated rulemaking was facilitated by involving current grant recipients in formulation of the policy through telephone interviews, surveys, one on one meetings, and public meetings of the Idaho Travel Council. The Idaho Travel Council was presented with the results of the data collected and Commerce staff proposed a revision to the rule. The temporary rule was endorsed by the Idaho Travel Council and adopted by the Department Director on March 2, 2018.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Matt Borud at (208) 334-2470. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018 at 5:00 p.m. Mountain Time.

Dated this 21st day of August, 2018.

Bobbi-Jo Meuleman, Director
Idaho Department of Commerce
700 W State St, 2nd Floor
PO Box 83720, Boise, ID 83720-0093
Phone: (208) 334-2470
Fax: (208) 334-2631

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 28-0203-1802
(Only Those Sections With Amendments Are Shown.)

011. PROGRAM INTENT.

The intent of the ITC's Regional Grant Program is to distribute grant funds to non-profit, incorporated organizations which have in place a viable travel or convention promotion program, or both, in their area of operation. Preference is given to programs ~~of Destination Marketing Organizations (DMOs)~~ with a primary focus of promoting overnight visitation in ~~their area~~ Idaho. Funds may be used for tourism marketing which has a positive economic impact to the state of Idaho. Such marketing includes, but is not limited to, the promotion of accommodations, recreational areas, events, conferences, food and beverage, tourism services, culture, attractions, and transportation. The Idaho Travel Council and the Department will guide the tourism marketing goals and strategies for the state of Idaho.

~~(3-29-10)~~()

(BREAK IN CONTINUITY OF SECTIONS)

013. DISTRIBUTION OF FUNDS.

The Idaho Regional Travel and Convention Grant is a cost reimbursementable grant.

~~(3-29-10)~~()

01. Documentation of Funds Expended. The Department will allocate reimburse funds to the grantee upon submission and review of complete documentation of funds expended.

~~(3-29-10)~~()

02. Documentation of Reimbursable Expenses. Documentation for reimbursable expenses will be determined by the Department and the ITC as outlined in the guidelines.

(3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

015. POTENTIAL CONFLICT OF INTEREST.

A ~~#~~ grant recipient's affiliation with a profit-making organization could imply a conflict of interest and must be disclosed. Such conflict could render the grant application ineligible.

~~(3-29-10)~~()

(BREAK IN CONTINUITY OF SECTIONS)

017. ELIGIBLE PROJECTS.

Eligible projects under the Regional Travel and Convention Grant Program must be consistent with the legislative declaration of policy in Title 67, Chapter 47, Idaho Code, and the program intent. Programs that are eligible for consideration must fall under the basic definition of travel or convention promotion.

~~(3-29-10)~~()

018. ~~INELIGIBLE PROJECTS~~ ADMINISTRATIVE EXPENSES.

01. Program Purpose. It is not the purpose of this grant program to fund the day-to-day, administrative expenses of organizations that have a travel or convention promotion element. Projects that have alternative funding sources (for example, regular Chamber of Commerce budgets) or that have been funded previously with the agency's own funds may be deemed ineligible.

~~(3-29-10)~~()

~~01. Organizational Administrative Expense. Rent, phone, supplies, wages and salaries, other overhead and administrative expenses are not reimbursable; however, the actual cost of staff wages and benefits (Other Personnel Expenses (OPE)) may be used as cash match with documentation.~~

~~(3-29-10)~~

~~02. **Salary or Personnel Administrative Expense.** Expenses related to grant writing are not eligible. The following administrative and overhead costs are allowable: (3-29-10)()~~

~~a. **Wages and Benefits.** Wages and benefits of one (1) designated grant administrator for time directly related to the task of grant administration. Other employee wages and benefits incurred in the execution of the grant program may be used as cash match with documentation. ()~~

~~b. **Overhead.** Reasonable, apportioned overhead costs of the grantee organization required to execute the grant program shall be approved by the Idaho Travel Council. The Department shall recommend preferred apportionment methods. ()~~

~~c. **Grant Writing.** No expenses related to grant writing, or grant application are eligible. ()~~

~~03. **Alternative Funding Sources.** Projects that have alternative funding sources (for example, regular Chamber of Commerce budgets) or that have been funded previously with the agency's own funds may be deemed ineligible. (3-29-10)~~

(BREAK IN CONTINUITY OF SECTIONS)

022. GRANT ADMINISTRATION GUIDELINES.

01. Noncompliance with Guidelines. Noncompliance with administrative guidelines may lead to grant termination or omission from future grant awards, or both. (3-29-10)

02. Usage of Funds. Applicant must agree that funds will be used in accordance with ITC grant contract and guidelines, including, but not limited to: (3-29-10)()

- a. Submitting narrative progress reports according to contract schedule; (3-29-10)
- b. Using appropriate forms with accompanying documentation; (3-29-10)
- c. Abiding by subcontract procedures in the guidelines; and (3-29-10)
- d. Providing complete audit documentation when applicable. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

201. MATCHING FUNDS.

Match must be documented in the application. (3-29-10)

01. Match Required. The Idaho Regional Travel and Convention Grant Program requires match from all organizations applying for funding as a way to increase the regional or local commitment to the plan, and to assist in generating more dollars for tourism promotion. (3-29-10)

02. Match Percentage. All plans must provide cash match of twelve and one-half percent (12.5%) of the amount awarded. All match must be outlined in the scope of work within the grant application. Audits are exempt from match requirements. (3-29-10)

03. Match Definition. Match is defined in the guidelines, but is considered documented cash contributions, wages and benefits or income used to fund a project. (3-29-10)

04. Expenditures. Expenditures claimed for projects funded previously by the grantee, such as

brochures and publications, will not be allowed as match. (3-29-10)

05. Marketing. Marketing dollars spent by a for-profit enterprise within their marketing program may not be claimed as cash match by a grantee, not to exclude approved co-op programs. (3-29-10)

~~**06. Audits.** Funds awarded for audits are exempt from match requirements. (3-29-10)~~

(BREAK IN CONTINUITY OF SECTIONS)

222. GRANT AWARD.

The ITC is responsible for the selection of applications to be awarded ITC Grants. Once the ITC has selected ~~plans~~ **applications** to be funded, the Department will notify all applicants, ~~by letter~~, of their funding status **in writing**. ~~(3-29-10)()~~

01. Term of Contract. All contracts will be in effect for a period of no more than fourteen (14) months unless otherwise stipulated in the contract. (3-29-10)

02. Special Conditions. If applicable, special conditions of funding will be outlined. (3-29-10)

03. Effective Date. The grant will take effect upon the date of award. Grant monies cannot be expended until that date. (3-29-10)

04. Reimbursement. No expenditures can be reimbursed until the contract is signed by the Director of the Department or his designee. (3-29-10)

223. AUDIT REQUIREMENT.

Grantees who receive one hundred thousand dollars (\$100,000) or more in grant funds ~~must will~~ have an audit. The audit ~~must will~~ be performed by a Certified Public Accountant and submitted to the Department within sixty (60) days following the close of the grant cycle. The Council may also require an audit for grants less than one hundred thousand dollars (\$100,000). ~~Estimated audit costs must be included in the grant application. Audits are exempt from match requirements.~~ ~~(3-29-10)()~~