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Division of Publications**

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Sequence Number: 06-03-16  
Rule ID(s): 6192  
File Date: 6/3/16  
Effective Date: 9/1/16

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Tourist Development
<b>Division:</b>	Administration
<b>Contact Person:</b>	Nancy Hargiss-Tatlock
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 13th Floor Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 741-9065
<b>Email:</b>	<a href="mailto:Nancy.Hargiss-Tatlock@tn.gov">Nancy.Hargiss-Tatlock@tn.gov</a>

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1670-05-01	Guidelines for Organization Applying for Tourist Promotion Matching Funds
Rule Number	Rule Title
1670-05-01-.01	Purpose
1670-05-01-.02	Application and Certification
1670-05-01-.03	Requirements and Audit
1670-05-01-.04	Approval and Funds
1670-05-01-.05	Expenditure of Approved Funds
1670-05-01-.06	Repealed

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to [http://sos.tn.gov/sites/default/files/forms/Rulemaking\\_Guidelines\\_August2014.pdf](http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf))

Chapter 1670-05-01-.01  
Guidelines for Organization Applying for Tourist Promotion Matching Funds

Amendments

Chapter 1670-05-01 Guidelines for Organization Applying for Tourist Promotion Matching Funds is amended by deleting it in its entirety and substituting instead the following:

TABLE OF CONTENTS

1670-05-01-.01	Purpose	1670-05-01-.04	Approval and Funds
1670-05-01-.02	Application and Certification	1670-05-01-.05	Expenditure of Approved Funds
1670-05-01-.03	Requirements and Audit	1670-05-01-.06	Repealed

1670-05-01-.01 PURPOSE.

- (1) By the provisions set forth in Tennessee Code Annotated ("T.C.A.") § 4-3-2207, State Matching Funds may be distributed to any regularly chartered, non-profit tourist promotion organization or tax exempt public agency promoting tourism throughout all the area within a planning region of the State of Tennessee as delineated by the [former] State Planning Commission and reiterated by Executive Order No. 17 issued by Governor Buford Ellington on October 14, 1968 (hereafter an "Organization").
- (2) It is further stated that each said Organization operating under the provisions of this chapter shall operate in complete accordance with T.C.A. § 4-3-2207, and that funds appropriated to implement the provisions of this chapter are subject to the recommendation of the Commissioner of Tourist Development and approval of the Commissioner of Finance and Administration.
- (3) Pursuant to the above and in compliance with T.C.A. § 4-3-2207, the following guidelines are hereby established, compliance with which is necessary for any organization requesting certification for State Matching Funds.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206 and 4-5-201 et seq.

1670-05-01-.02 APPLICATION AND CERTIFICATION.

- (1) The applying Organization shall submit with its initial application for State Matching Funds each fiscal year, a roster of its membership, together with the annual dues paid to the Organization and dues structure which shall act as certification that the applying Organization represents all the counties within its Planning Region ("Region") relative to the promotion of tourism. Annual dues paid for membership in the Organization or donations made to the Organization shall constitute acceptable matching local funds.
- (2) The applying Organization shall annually submit proof of its charter and non-profit status as either a non-profit corporation or a tax exempt public agency.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206 and 4-5-201 et seq.

#### 1670-05-01-.03 REQUIREMENTS AND AUDIT.

- (1) The applying Organization is required to furnish the Department of Tourist Development an annual report of its activities conducted by an independent public accountant registered with the Tennessee State Board of Accountancy for the prior fiscal year (July 1 of the prior year through June 30 of the present year). This report must be received by the Commissioner of Tourist Development before consideration will be given to approving said Organization for new fiscal year funding of State Matching Funds. Additionally, each applying Organization shall be subject to an audit annually by the Office of the Comptroller of the Treasury, State of Tennessee.
- (2) Bylaws of the applying Organization shall accompany the applying Organization's request for State Matching Funds, together with a roster of the Organization's Officers, Directors and Members of the Board showing representation from each county represented by the Organization. The Bylaws shall require that the applying Organization will operate under generally accepted good business practices. In addition the applying Organization must provide the following:
  - (a) Documentation showing the signature of at least one (1) authorized person from the Organization shall be required on all checks written on the Organization's account;
  - (b) Proof that Paid Executive(s) and other persons having access to the funds of said Organization are bonded at least to the amount of the State Matching Funds portion of the Organization's annual budget; and,
  - (c) Documentation of the dues structure of the Organization.
- (3) The applying Organization shall submit, together with its application for State Matching Funds at the beginning of a fiscal year (July 1), a copy of the Organization's marketing plan and total budget projections for the full fiscal year.
- (4) No application for State Matching Funds will be considered at the commencement of a fiscal year until an independent public accountant registered with the Tennessee State Board of Accountancy has furnished the Department of Tourist Development with an annual report of the Organization's activities for the previous fiscal year and it has been received and reviewed by the Commissioner of the Department of Tourist Development and found to be in compliance with these guidelines and the intent of applicable provision of the Tennessee Code Annotated.
- (5) The applying Organization must submit a letter, signed by its officers, stating that the Organization's officers fully comprehend and intend to adhere to these guidelines and the applicable Sections of the Tennessee Code Annotated.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206 and 4-5-201 et seq.

#### 1670-05-01-.04 APPROVAL AND FUNDS.

- (1) The above mentioned documents must be sent to the Department of Tourist Development before any Organization can receive State Matching Funds. After review of the submitted documents by the Department of Tourist Development, the applying Organization will be notified of its eligibility to receive the applied for State Matching Funds.
- (2) An approved Organization must forward to the Department of Tourist Development the following:
  - (a) The complete name and mailing address of the Organization;
  - (b) By Xerox, or another similar method, copies of checks received from the Organization's membership which are being used as local matching money, along with copies of deposit slips showing such funds as actually having been deposited in the Organization's account. Only those monies collected during the fiscal year for which the Organization is applying may be used as that Organization's matching money; and,

- (c) Minutes of at least two (2) meeting of the Board of Directors of the Organization will be held during a fiscal year with a quorum present.
- (3) The Chief Executive Officer of an approved Organization shall meet with representative(s) of the Department of Tourist Development at least semi-annually during a fiscal year for the purpose of reviewing the marketing goals of an approved Organization.
- (4) In order for the applying Organization to be eligible to retain up to the entire \$35,000.00 in State Matching Funds, said Organization must, during the fiscal year spend a total of \$52,500.00 (\$35,000.00 of State Matching Funds, \$17,500.00 of Region-raised funds based on a ratio of \$2.00 of State Matching Funds for every \$1.00 of locally raised funds) on tourist promotions which may include use of up to forty percent (40%) of State Matching Funds for administrative expenses in the Region. If the Organization does not have sufficient local matching funds to request up to a total of \$35,000.00 within a fiscal year period, then the appropriate amount of State Matching Funds will be retained by the Department of Tourist Development.
- (5) The final request for State Matching Funds in a fiscal year must be received by the Department of Tourist Development no later than May 31<sup>st</sup> of that fiscal year.
- (6) Upon receipt of a completed application for State Matching Funds, said application will be sent to the Commissioner of Tourist Development for recommendation and the Commissioner of Finance and Administration for approval and payment upon certification by the appropriate official of the applying Organization that Region-raised matching funds are available. State Matching Funds shall be distributed to the Organization on the basis of two dollars (\$2.00) in State Matching Funds for each one dollar (\$1.00) contributed by the membership or through donations to the applying Organization up to a maximum of thirty-five thousand dollars (\$35,000.00) each fiscal year, according to the provisions of the law.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206, 4-3-2207 and 4-5-201 et seq.

1670-05-01-.05 EXPENDITURE OF APPROVED FUNDS.

- (1) The following provisions prevail as to use of State Matching Funds by an approved Organization and shall be considered evidence of that Organization's receipt of local matching contributions.
- (2) All Organizations applying for and receiving State Matching Funds should maintain a separate Disbursement Journal pertaining to that portion of its budget funded by State Matching Funds. The following shall be adhered to as to expenditure of State Matching Funds monies:
  - (a) No more than forty percent (40%) of the total of State Matching Funds received in a fiscal year may be used for the administrative expense of operating said Organization. Administrative expenses include: salaries, in part or in total, of any employee, commissions, rent, machinery, office equipment, utilities, furnishings, taxes, payroll or otherwise, postage, insurance, telephone and other amenities generally considered essential in the day-to-day operation of a business.
  - (b) No State Matching Funds may be used to reimburse any member or contributor of said Organization for monies received which are used as locally raised matching funds, by cash transaction, development of promotional materials for a contributor, or in-kind services.
  - (c) Travel expenses to bona fide tourism travel/trade shows, exhibits, conventions, seminars, meetings, by authorized personnel representing the Organization are deemed to be eligible for State Matching Funds, provided attendance at such functions is in accordance with the Organization's marketing plan and the State's Travel Regulations.
  - (d) Expenditures for promotional materials and events of the Organization's planning area, i.e., brochures of the Region, advertising through travel/trade press, billboards, new media, including

radio, television, newspapers, periodicals, and other such outlets as are approved by the Commissioner of the Department of Tourist Development and outlined in the Organization's marketing plan.

- (e) Sponsoring familiarization tours within the Region to expose the area to travel/trade writers, travel agents, bus operators, tour brokers and wholesalers, airline personnel, and other groups capable of bringing visitors to the Region are deemed acceptable uses of State Matching Funds.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206, 4-3-2207. and 4-5-201 et seq.

1670-05-01-.06 REPEALED.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206, 4-3-2207, and 4-5-201 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 04/11/2016, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/01/16

Rulemaking Hearing(s) Conducted on: (add more dates). 04/04/16

Date: April 13, 2016

Signature: [Handwritten Signature]

Name of Officer: Kevin R. Triplett

Title of Officer: Commissioner of Tourist Development

Subscribed and sworn to before me on: April 13, 2016

Notary Public Signature: [Handwritten Signature]

My commission expires on: My Commission Expires NOV. 6, 2017

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]  
Herbert H. Slatery III  
Attorney General and Reporter

6/1/2016  
Date

Department of State Use Only

Filed with the Department of State on: 6/3/16

Effective on: 9/1/16



Tre Hargett  
Secretary of State

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## **Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments received during the public comment period.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule affects small businesses.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The proposed rule impacts the State's regional tourism promotion organizations established by Executive Order No. 19 by Governor Buford in 1968. That Executive Order established nine (9) regional tourism promotion organizations which cover all of the State of Tennessee and it has now been incorporated into Tennessee Code Annotated Section 4-3-2207(b). The impact on small business in the hospitality industry which includes restaurants, hotels, attractions, sporting goods stores, sporting venues and other travel-related businesses both in urban and rural areas will indirectly benefit from the additional State tourism dollars available to the regional, tourism promotion organizations.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The recordkeeping, reporting and administrative costs required to comply with the proposed rules and the level of professional skills necessary for preparation of the records is minimal to the nine (9) regional tourism promotion organizations. The Department has an established procedure including a checklist of all the required documents each regional tourism promotional organization must furnish the State to apply for State matching funds each State fiscal year. Each regional tourism promotional organization has a managing director who has the responsibility to submit the documents required to receive State matching funds. The State checklist is a list of the items necessary for a regional tourism promotion organization to receive State matching funds and the checklist is sent to each regional tourism promotion organization several times during the course of the State fiscal year to assist the heads of the regional organizations with the necessary recordkeeping, reporting and administrative duties to receive State matching funds. The State also assists the tourism promotion regional organizations by: Answering questions; reviewing submitted documents; sending reminders about outstanding documents; and, notifying organizations of any issues which may arise concerning an organization's request for matching funds.

- (3) A statement of the probable effect on impacted small businesses and consumers.

The proposed rules will have a minimal impact on small businesses and consumers. The rules are applicable only to the State's nine (9) regional tourism promotional organizations established by the former State Planning Commission and Executive Order 17 and are now incorporated in the Tennessee Code Annotated. The impact on small businesses and/or consumers will not be significant other than to perhaps provide more State funding for the tourism promotion organization in regions throughout Tennessee. The rules were designed to provide additional tourism promotion dollars from the State to regional tourism promotional organizations across the State of Tennessee which has been in place for several decades. The additional tourism dollars assist in promoting each region of the State with the goal being to bring more tourists to each region which in turn results in increased sales and hotel tax revenue for the various regions in Tennessee. The existing rules provide only a maximum of \$25,000 in State matching funds to regional tourism promotion organizations; however, that amount has been increased to \$35,000 pursuant to T.C.A. Section 4-3-2207(b) and that increase is incorporated in this amendment. In addition, T.C.A. Section 4-3-2207(b) also increased the State's available matching funds from \$1.00 to \$2.00, therefore for every \$1.00 raised by members of the State's regional tourism promotion organizations as either membership fees or donations, the State will pay the regional tourism promotion organization \$2.00 in State Matching Funds up to the maximum liability amount of the grant contract for a given fiscal year and this increase is also incorporated in this amendment. The proposed amendments to the rules will incorporate the additional State funding available to regional tourism promotion organizations so that the rules are consistent with provisions of the Tennessee Code Annotated.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The existing as well as proposed amendments to the rules are not burdensome, intrusive or costly for small businesses because the rules are not applicable to small businesses. The proposed rules apply only to the State's regional tourism promotional organizations and are designed to provide additional tourism dollars to Tennessee's nine (9) regional tourism promotional organizations which include: i) Greater Nashville Regional Council; ii) Memphis Area Association of Governments; iii) Middle East Tennessee Tourism Council; iv) Northeast Tennessee Association; v) Northwest Tennessee Tourism; vi) South Central Tennessee Tourism Association; vii) Southeast Tennessee Developmental District; viii) Tourism Association of Southwest Tennessee; and, ix) Upper Cumberland Tourism Association.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The proposed rules have no federal or state counterparts.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

An exemption of small businesses from all or any part of the requirements contained in the proposed rules is not necessary because the rules have little impact on small businesses other than to potentially increase the revenue for such businesses in the hospitality and tourism industry.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department anticipates that these amended rules will have a beneficial financial impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The purpose of the amendments to the rules is to update the Tennessee Department of Tourist Development's Matching Grant rules to conform to revisions in the Tennessee Code Annotated ("T.C.A."). The revisions to the T.C.A. include: i) An increase of the maximum liability amount of State matching grant monies payable to each regional tourism promotion organizations from \$25,000 to \$35,000 each fiscal year; ii) an expansion of the types of business entitles which are entitled to receive matching State funds to include regional tourism promotion organizations which are tax exempt as well as chartered, non-profit organizations (See T.C.A. Section 4-3-2207(b)); and, iii) to increase the State match from \$1.00 to \$2.00 for each \$1.00 received by a regional tourism promotion organization as membership fees or donations as set forth in T.C.A. Section 4-3-2207(b). The match had previously been \$1.00 of State funding for every \$1.00 received by a regional tourism promotion organization as membership fees and/or donations.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Amendments to Chapter 1670-05-01 Guidelines for Organization Applying for Tourist Promotion Matching Funds are being adopted pursuant to Tennessee Code Annotated, Sections 4-3-2201, et seq.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All of the nine (9) regional tourism promotional organizations were notified of amendments to the rules and have been given an opportunity to ask questions, comment and/or contribute to the proposed rules and all have urged adoption.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any attorney general opinions or judicial rulings that directly relate to Chapter 1670-05-01.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Recently released tourism data includes the following for 2014: The State of Tennessee has had 101.3 million person stays; tourism has provided 17.7 billion dollars in economic impact for Tennessee; and, there have been nine (9) consecutive years with more than one billion dollars (\$1,000,000,000) collected as a result of tourism in state and local taxes. This data does not incorporate a region by region breakdown of revenue collected as a result of tourism; however, there will be a probable increase in state and local government revenues and expenditures as a result of the promulgation of the rules. The rules will increase the maximum amount of State matching funds and the funding ratio from \$1.00 to \$2.00 in State matching funds for every \$1.00 of locally raised funds which regional tourism promotional organizations may apply for pursuant to T.C.A. Section 4-3-2207(b) and these revisions (also reflected in the underlying statute) may result in an increase in state and local revenue although the amount of such an increase cannot be determined from the data presently available to the Department.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Nancy Hargiss-Tatlock, General Counsel  
Department of Tourist Development  
312 Rosa L. Parks Ave., 13<sup>th</sup> Fl.  
Nashville, TN 37243  
[Nancy.Hargiss-Tatlock@tn.gov](mailto:Nancy.Hargiss-Tatlock@tn.gov)  
615-741-9065

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

John Carr, Assistant Commissioner of Administration; [John.Carr@tn.gov](mailto:John.Carr@tn.gov); 615-741-9023  
Nancy Hargiss-Tatlock, General Counsel; [Nancy.Hargiss-Tatlock@tn.gov](mailto:Nancy.Hargiss-Tatlock@tn.gov); 615-741-9065  
Department of Tourist Development  
312 Rosa L. Parks Ave., 13<sup>th</sup> Fl.  
Nashville, TN 37243

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

John Carr, Assistant Commissioner of Administration; [John.Carr@tn.gov](mailto:John.Carr@tn.gov); 615-741-9023  
Nancy Hargiss-Tatlock, General Counsel; [Nancy.Hargiss-Tatlock@tn.gov](mailto:Nancy.Hargiss-Tatlock@tn.gov); 615-741-9065  
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is unaware of any committee requests.

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*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Tourist Development
<b>Division:</b>	Administration
<b>Contact Person:</b>	Nancy Hargiss-Tatlock
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 13th Floor Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 741-9065
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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
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Rule Number	Rule Title
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Chapter 1670-05-01-01  
Guidelines for Organization Applying for Tourist Promotion Matching Funds

Amendments

Chapter 1670-05-01 Guidelines for Organization Applying for Tourist Promotion Matching Funds is amended by deleting it in its entirety and substituting instead the following:

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1670-05-01-.03	Requirements and Audit	1670-05-01-.06	Repealed

1670-05-01-.01 Purpose.

- (1) By the provisions set forth in ~~Section 11-605, Tennessee Code Annotated,~~ Tennessee Code Annotated (“T.C.A.”) § 4-3-2207, ~~State Matching Funds~~ may be distributed to any regularly chartered, non-profit tourist promotion organization or tax exempt public agency promoting tourism throughout all the area within a planning region of the State of Tennessee as delineated by the [former] State Planning Commission and reiterated by Executive Order No. 17 issued by Governor Buford Ellington on October 14, 1968 (hereafter an “Organization”).
- (2) It is further stated that each said Organization operating under the provisions of this chapter shall operate in complete accordance with ~~Section 11-605, Tennessee Code Annotated,~~ T.C.A. § 4-3-2207, and that funds appropriated to implement the provisions of this chapter are subject to the approval recommendation of the Commissioner of Tourist Development and approval of the Commissioner of Finance and Administration.
- (3) Pursuant to the above and in compliance with ~~Section 11-605, Tennessee Code Annotated,~~ T.C.A. § 4-3-2207, the following guidelines are hereby established, compliance with which is necessary for any Organization requesting certification for State Matching Funds.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206 and 4-5-201 et seq.

1670-05-01-.02 Application and certification.

- (1) The applying Organization shall submit ~~annually,~~ with its initial application for State Matching Funds ~~in a~~ each fiscal year, a roster of its membership, together with the annual dues paid to the Organization and dues structure which shall act as certification that the applying Organization represents all the counties within its Planning Region (“Region”) relative to the promotion of tourism. Annual dues paid for membership in the Organization or donations made to the Organization shall constitute acceptable matching local funds.
- (2) The applying Organization shall annually submit ~~annually~~ proof of its charter and non-profit status as either a non-profit corporation or tax exempt public agency.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206 and 4-5-201 et seq.

1670-05-01-.03 Requirements and audits.

- (1) The applying Organization is required to furnish the Department of Tourist Development with an annual report of its activities conducted by an independent public accountant registered with the Tennessee State Board of Accountancy for the prior State fiscal year (July 1- of the prior year through June 30 of each the present year). This report must be received by the Commissioner of Tourist Development before consideration will be given to approving said Organization for new fiscal year funding of State Matching Funds. Additionally, each applying Organization shall be audited subject to an audit annually by the Office of the Comptroller of the Treasury, State of Tennessee.
- (2) Bylaws of the applying Organization shall accompany the applying Organization's request for State Matching Funds, together with a roster of the Organization's Officers, Directors and Members of the Board showing representation from each county represented by the Organization. The Bylaws shall require that the applying Organization will operate under generally accepted good business practices. In addition, and include the following provisions the applying Organization must provide the following:
  - ~~(a) — At least two (2) meetings of the Board of Directors of the organization will be held during a fiscal year with a quorum present. Minutes of said meetings shall be forwarded to the Department of Tourist Development;~~
  - (a) Signatures Documentation showing the signature of at least two (2) persons one (1) authorized person from said the Organization shall be required on all checks written on the Organization's account;
  - (b) Proof that Paid Executive(s) and other persons having access to the funds of said Organization must be are bonded at least to the amount of the State Matching Funds portion of its the Organization's annual budget; and,
  - (c) Documentation of the dues structure of the Organization.
- ~~(3) — Applying Organization shall be exempted from the provision requiring direct representation on its Board of Directors from each of the counties within its planning region if said Organization receives less than 25% (twenty-five percent) of its annual operating budget from matching funds monies; provided, however, said Organization submits to the Commissioner of the Department of Tourist Development a marketing plan established by a regional tourism committee showing the intended use of the state matching funds applied for. Said Organization shall establish a tourism committee made up of at least two representatives from each county within the Regional Development District for the purpose of establishing aforementioned marketing plan. This committee shall meet at least twice annually to review the marketing plan matching funds program, thereby evidencing participation of all of the counties within the Region.~~
- (3) The applying Organization shall submit, together with its application for State Matching Funds at the beginning of a fiscal year (July 1), a copy of its the Organization's marketing plan and total budget projections for the full fiscal year.
- (4) No application for State Matching Funds will be considered at the commencement of a fiscal year until an independent public accountant of Planning Regions' registered with the Tennessee State Board of Accountancy has furnished the Department of Tourist Development with an audit of the Planning Region's Organization's annual activities for the previous fiscal year and it has been received and reviewed by the Commissioner of the Department of Tourist Development and found to be in compliance with these guidelines and the intent of Section 11-605, Tennessee Code Annotated applicable provisions of the Tennessee Code Annotated.
- (5) The applying Organization must submit a letter, signed by its officers, stating full comprehension and intent that the Organization's officers fully comprehend and intend to adhere to these guidelines and applicable Sections of the Tennessee Code Annotated.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206 and 4-5-201 et seq.

1670-05-01-.04 Approval and funds.

- (1) The above mentioned documents must be sent to the Department of Tourist Development before any Organization can receive State Matching Funds monies. After review of the submitted documents by the Department of Tourist Development, the applying Organization will be notified of its eligibility to receive such the applied for State Matching Funds monies.
- (2) An approved Organization must forward to the Department of Tourist Development the following:
  - (a) The complete name and mailing address of the Organization;
  - (b) By Xerox, or another similar method, of copies of checks received from its the Organization's membership which it is using are being used as local matching money, copy along with copies of deposit slips showing such funds as actually being having been deposited into the Organization's account. Only those monies collected during the fiscal year for which the Organization is applying may be used as that Organization's matching money; and,
  - (c) Minutes of at least two (2) meetings of the Board of Directors of the Organization will be held during a fiscal year with a quorum present.
- (3) The Chief Executive Officer of an approved Organization shall meet with representative(s) of the Department of Tourist Development at least quarterly semi-annually during a fiscal year for the purpose of reviewing marketing goals of an approved Organization.
- (4) In order for the applying Organization to be eligible to retain up to the entire ~~\$25,000.00~~ \$35,000.00 in State Matching Grant monies Funds, said Organization must, during the fiscal year, spend a total of ~~\$50,000.00 (\$25,000.00 State monies, \$25,000 Region-raised funds)~~ \$52,500.00 (\$35,000.00 of State Matching Funds, \$17,500.00 of Region-raised funds based on a ratio of \$2.00 of State Matching Funds for every \$1.00 of locally raised funds) on tourist promotion including administrative expenses which may include use of up to forty percent (40%) of State Matching Funds for administrative expenses in the Region. If the Organization should spend less does not have sufficient local matching funds to request up to than a total of ~~\$50,000.00~~ \$35,000.00 within a fiscal year period, then the appropriate amount of State Matching monies Funds will be returned retained to by the Department of Tourist Development, at the end of the Fiscal year, which will, in turn, revert to the General Fund.
- (5) The final request for State Matching Funds in a fiscal year must be received by the Department of Tourist Development by no later than May 31 of that fiscal year.
- (6) Upon receipt of a completed application for State Matching Funds, said application will be forwarded to the Office of the Governor for approval by the Governor for approval by the Governor. The application shall then be sent to the Commission of Finance and Administration sent to the Commissioner of Tourist Development for recommendation and the Commissioner of Finance and Administration for approval and payment upon certification by the appropriate official of the applying Organization that Region-raised matching funds are available. State Matching Funds shall be distributed to the Organization on the basis of one dollar (~~\$1.00~~) two dollars (\$2.00) in State Matching Funds for each one dollar (\$1.00) contributed by the membership or through donations to the applying Organization up to a maximum of ~~twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00) annually each fiscal year, according to the provisions of the law.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206, 4-3-2207 and 4-5-201 et seq.

1670-05-01-.05 Expenditure of approved funds.

- (1) The following provisions prevail as to use of State Matching Funds by an approved Organization and evidence required to show shall be considered evidence of that Organization's receipt of local matching contributions.

~~(a)~~

(2) All Organizations applying for and receiving State Matching Funds should maintain a separate Disbursement Journal pertaining to that portion of its budget funded by State Matching Funds. The following shall be adhered to as to expenditure of State Matching Funds monies:

- 1-~~(a)~~ No more than forty percent (40%) of the total of State Matching Funds received in a fiscal year may be used for the administrative expense of operating said ~~o~~Organization. Administrative expenses includes: ~~s~~Salaries, in part or in total, of any employee, commissions, rent, machinery, office equipment, utilities, furnishings, taxes, payroll or otherwise, postage, insurance, telephone and other amenities generally considered essential in the day-to-day operation of a business.
- 2-~~(b)~~ No State Matching Funds monies may be used to reimburse any member or contributor of said Organization for monies received which are used as locally raised ~~M~~atching Funds, either by cash transaction, development of promotional materials for ~~a~~ contributor, or ~~an~~ in-kind services.
- 3-~~(c)~~ Travel expenses to bona fide tourism travel/trade shows, exhibits, conventions, seminars, meetings, by authorized personnel representing the Organization are deemed to be eligible for the State's Matching Funds monies, provided attendance at such functions is in accordance with the Organization's marketing plan and ~~the~~ State's Travel Regulations.
- 4-~~(d)~~ Expenditures for promotional material and events of the Organization's planning area, i.e., brochures of the Region, advertising through travel/trade press, billboards, new media, including radio, television, newspapers, periodicals, and other such outlets as are approved by the Commissioner of the Department of Tourist Development and outlined in the Organization's marketing plan.
- 5-~~(e)~~ Sponsoring familiarization tours within ~~the~~ Planning Region to expose ~~the~~ area to travel/trade writers, travel agents, bus operators, tour brokers and wholesalers, airline personnel, and other groups capable of bringing visitors to the Region is ~~are~~ deemed an acceptable uses of State Matching Funds monies.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206, 4-3-2207. and 4-5-201 et seq.

1670-05-01-.06 Repealed.

Authority: T.C.A. §§ 4-3-2201 et seq., 4-3-2206, 4-3-2207, and 4-5-201 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 04/11/2016, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/01/16

Rulemaking Hearing(s) Conducted on: (add more dates). 04/04/16

Date: April 13, 2016

Signature: \_\_\_\_\_

Name of Officer: Kevin R. Triplett

Title of Officer: Commissioner of Tourist Development

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

### **Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments received during the public comment period.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule affects small businesses.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The proposed rule impacts the State's regional tourism promotion organizations established by Executive Order No. 19 by Governor Buford in 1968. That Executive Order established nine (9) regional tourism promotion organizations which cover all of the State of Tennessee and it has now been incorporated into Tennessee Code Annotated Section 4-3-2207(b). The impact on small business in the hospitality industry which includes restaurants, hotels, attractions, sporting goods stores, sporting venues and other travel-related businesses both in urban and rural areas will indirectly benefit from the additional State tourism dollars available to the regional, tourism promotion organizations.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The recordkeeping, reporting and administrative costs required to comply with the proposed rules and the level of professional skills necessary for preparation of the records is minimal to the nine (9) regional tourism promotion organizations. The Department has an established procedure including a checklist of all the required documents each regional tourism promotional organization must furnish the State to apply for State matching funds each State fiscal year. Each regional tourism promotional organization has a managing director who has the responsibility to submit the documents required to receive State matching funds. The State checklist is a list of the items necessary for a regional tourism promotion organization to receive State matching funds and the checklist is sent to each regional tourism promotion organization several times during the course of the State fiscal year to assist the heads of the regional organizations with the necessary recordkeeping, reporting and administrative duties to receive State matching funds. The State also assists the tourism promotion regional organizations by: Answering questions; reviewing submitted documents; sending reminders about outstanding documents; and, notifying organizations of any issues which may arise concerning an organization's request for matching funds.

- (3) A statement of the probable effect on impacted small businesses and consumers.

The proposed rules will have a minimal impact on small businesses and consumers. The rules are applicable only to the State's nine (9) regional tourism promotional organizations established by the former State Planning Commission and Executive Order 17 and are now incorporated in the Tennessee Code Annotated. The impact on small businesses and/or consumers will not be significant other than to perhaps provide more State funding for the tourism promotion organization in regions throughout Tennessee. The rules were designed to provide additional tourism promotion dollars from the State to regional tourism promotional organizations across the State of Tennessee which has been in place for several decades. The additional tourism dollars assist in promoting each region of the State with the goal being to bring more tourists to each region which in turn results in increased sales and hotel tax revenue for the various regions in Tennessee. The existing rules provide only a maximum of \$25,000 in State matching funds to regional tourism promotion organizations; however, that amount has been increased to \$35,000 pursuant to T.C.A. Section 4-3-2207(b) and that increase is incorporated in this amendment. In addition, T.C.A. Section 4-3-2207(b) also increased the State's available matching funds from \$1.00 to \$2.00, therefore for every \$1.00 raised by members of the State's regional tourism promotion organizations as either membership fees or donations, the State will pay the regional tourism promotion organization \$2.00 in State Matching Funds up to the maximum liability amount of the grant contract for a given fiscal year and this increase is also incorporated in this amendment. The proposed amendments to the rules will incorporate the additional State funding available to regional tourism promotion organizations so that the rules are consistent with provisions of the Tennessee Code Annotated.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The existing as well as proposed amendments to the rules are not burdensome, intrusive or costly for small businesses because the rules are not applicable to small businesses. The proposed rules apply only to the State's regional tourism promotional organizations and are designed to provide additional tourism dollars to Tennessee's nine (9) regional tourism promotional organizations which include: i) Greater Nashville Regional Council; ii) Memphis Area Association of Governments; iii) Middle East Tennessee Tourism Council; iv) Northeast Tennessee Association; v) Northwest Tennessee Tourism; vi) South Central Tennessee Tourism Association; vii) Southeast Tennessee Developmental District; viii) Tourism Association of Southwest Tennessee; and, ix) Upper Cumberland Tourism Association.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The proposed rules have no federal or state counterparts.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

An exemption of small businesses from all or any part of the requirements contained in the proposed rules is not necessary because the rules have little impact on small businesses other than to potentially increase the revenue for such businesses in the hospitality and tourism industry.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department anticipates that these amended rules will have a beneficial financial impact on local governments.

## **Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The purpose of the amendments to the rules is to update the Tennessee Department of Tourist Development's Matching Grant rules to conform to revisions in the Tennessee Code Annotated ("T.C.A."). The revisions to the T.C.A. include: i) An increase of the maximum liability amount of State matching grant monies payable to each regional tourism promotion organizations from \$25,000 to \$35,000 each fiscal year; ii) an expansion of the types of business entities which are entitled to receive matching State funds to include regional tourism promotion organizations which are tax exempt as well as chartered, non-profit organizations (See T.C.A. Section 4-3-2207(b)); and, iii) to increase the State match from \$1.00 to \$2.00 for each \$1.00 received by a regional tourism promotion organization as membership fees or donations as set forth in T.C.A. Section 4-3-2207(b). The match had previously been \$1.00 of State funding for every \$1.00 received by a regional tourism promotion organization as membership fees and/or donations.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Amendments to Chapter 1670-05-01 Guidelines for Organization Applying for Tourist Promotion Matching Funds are being adopted pursuant to Tennessee Code Annotated, Sections 4-3-2201, et seq.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All of the nine (9) regional tourism promotional organizations were notified of amendments to the rules and have been given an opportunity to ask questions, comment and/or contribute to the proposed rules and all have urged adoption.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any attorney general opinions or judicial rulings that directly relate to Chapter 1670-05-01.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Recently released tourism data includes the following for 2014: The State of Tennessee has had 101.3 million person stays; tourism has provided 17.7 billion dollars in economic impact for Tennessee; and, there have been nine (9) consecutive years with more than one billion dollars (\$1,000,000,000) collected as a result of tourism in state and local taxes. This data does not incorporate a region by region breakdown of revenue collected as a result of tourism; however, there will be a probable increase in state and local government revenues and expenditures as a result of the promulgation of the rules. The rules will increase the maximum amount of State matching funds and the funding ratio from \$1.00 to \$2.00 in State matching funds for every \$1.00 of locally raised funds which regional tourism promotional organizations may apply for pursuant to T.C.A. Section 4-3-2207(b) and these revisions (also reflected in the underlying statute) may result in an increase in state and local revenue although the amount of such an increase cannot be determined from the data presently available to the Department.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Nancy Hargiss-Tatlock, General Counsel  
Department of Tourist Development  
312 Rosa L. Parks Ave., 13<sup>th</sup> Fl.  
Nashville, TN 37243  
[Nancy.Hargiss-Tatlock@tn.gov](mailto:Nancy.Hargiss-Tatlock@tn.gov)  
615-741-9065

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

John Carr, Assistant Commissioner of Administration; [John.Carr@tn.gov](mailto:John.Carr@tn.gov); 615-741-9023  
Nancy Hargiss-Tatlock, General Counsel; [Nancy.Hargiss-Tatlock@tn.gov](mailto:Nancy.Hargiss-Tatlock@tn.gov); 615-741-9065  
Department of Tourist Development  
312 Rosa L. Parks Ave., 13<sup>th</sup> Fl.  
Nashville, TN 37243

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

John Carr, Assistant Commissioner of Administration; [John.Carr@tn.gov](mailto:John.Carr@tn.gov); 615-741-9023  
Nancy Hargiss-Tatlock, General Counsel; [Nancy.Hargiss-Tatlock@tn.gov](mailto:Nancy.Hargiss-Tatlock@tn.gov); 615-741-9065  
Department of Tourist Development  
312 Rosa L. Parks Ave., 13<sup>th</sup> Fl.  
Nashville, TN 37243

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is unaware of any committee requests.