

**RESEARCH & DEVELOPMENT TAX CREDIT PROGRAM  
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## **RESEARCH & DEVELOPMENT TAX CREDIT PROGRAM**

### **RULES**

#### **1.0 GENERAL INFORMATION**

Act 759 of 1985 provides several tax credit incentives to Arkansas taxpayers to support research and educational program efforts at Arkansas colleges and universities. Act 1607 of 2007 amends the tax credit incentives.

Act 759 of 1985 allows the Arkansas Science & Technology Authority and the Arkansas Department of Higher Education to adopt certain rules specifically governing claims for tax credits for contributions to qualified research programs at qualified educational institutions.

These statutory provisions are codified as Arkansas Code sections 26-51-1101 through 26-51-1105.

#### **1.1 PROGRAM NAME**

These rules will govern the Arkansas Department of Higher Education and the Arkansas Science & Technology Authority's Research & Development Tax Credit Program.

#### **1.2 PURPOSE**

The purpose of the Research & Development Tax Credit Program is to provide incentive to Arkansas industry to participate in the Science & Technology Authority's Applied Research Grant Program, Basic Research Grant Program or similar research programs.

#### **1.3 AUTHORIZATION**

The Research & Development Tax Credit Program for qualified research programs is authorized by Sections 2 and 3 of Act 759 of 1985, the same being

## R&D Tax Credit Program Rules

Arkansas Code section 11-51-1102. The power to establish rules governing this program is granted by Section 6 of Act 759 of 1985, the same being Arkansas Code section 26-51-1105.

### 2.0 PROGRAM DESCRIPTION

The Research & Development Tax Credit Program allows credits against a taxpayer's Arkansas state income tax for making certain qualified research expenditures, as well as certain donations or sales below cost of new machinery and equipment to a qualified research program.

### 2.1 LIMITS ON CREDIT

- 2.1.1 In the case of a qualified research expenditure, the amount of credit granted shall be thirty-three percent (33%) of the amount expended by the taxpayer in the tax year on the qualified research program.
- 2.1.2 In the case of a donation of new machinery or equipment, the amount of credit granted shall be thirty-three percent (33%) of the amount by which the cost is reduced.
- 2.1.3 In the case of a sale below cost of new machinery or equipment, the amount of credit granted shall be thirty-three percent (33%) of the amount by which the cost is reduced.
- 2.1.4 Total credit for qualified research expenditures, donations, and sales below cost shall be allowed up to one hundred percent (100%) of the net tax liability of the taxpayer after all other credits and reductions in tax have been calculated.
- 2.1.5 In the case of donations or sales below cost, the credit shall be claimed in the tax year of the donation or sale below cost, but all or any part of the unused credit may be carried over to and claimed in succeeding tax years until the credit is exhausted or until the end of nine tax years next succeeding the tax year of the donation or sale below cost, whichever occurs earlier.
- 2.1.6 In the case of a qualified research expenditure, the credit shall be claimed in the tax year in which the expense incurred for the qualified research is actually paid, but all or any part of any unused credit may be carried over to and claimed in succeeding tax years until the credit is exhausted or until the end of nine tax years next succeeding the tax year of the payment for the qualified research expenditure, whichever occurs earlier.
- 2.1.7 Any person claiming any credit granted by Act 759 of 1985 as amended for any expense, or contribution, or sale below cost shall not take any deduction under the Arkansas Income Tax Law for the same expense or contribution.

## R&D Tax Credit Program Rules

### 2.2 DEFINITIONS

For the purposes of the Authority's Research and Development Tax Credit Program, the following words and phrases have the following definitions.

- 2.2.1 "Applied Research" shall mean any activity which seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue.
- 2.2.2 "Basic Research" shall mean any original investigation for the advancement of scientific or technological knowledge.
- 2.2.3 "Cost" shall mean, in the case of a donation or sale below cost by a wholesale or retail business, the amount actually paid by the wholesaler or retailer to the supplier for the machinery and equipment.
- "Cost" shall mean, in the case of a donation or sale below cost by a manufacturer of machinery or equipment, the enhanced value of the materials used to produce the machinery or equipment, which shall be deemed to be the lowest price at which the manufacturer sells the machinery or equipment.
- 2.2.4 "Industry" shall include, but not be limited to, manufacturing facilities, warehouses, distribution facilities, repair and maintenance facilities, agricultural facilities, and corporate management offices for industry.
- 2.2.5 "Machinery and Equipment" shall mean the tangible personal property used in connection with a qualified research program, and which has been approved for a tax credit under rules and regulations prescribed by the Department of Finance and Administration.
- 2.2.6 "New" shall mean the machinery and equipment that is state-of-the-art machinery and equipment which (1) has never been used except for normal testing by the manufacturer to insure that the machinery or equipment is of a proper quality and in good working order, or (2) has been used by the wholesaler or retailer solely for the purpose of demonstrating the product to customers for sale.

## R&D Tax Credit Program Rules

2.2.7 "Qualified Educational Institution" shall mean (1) any public university, college, junior college, or vocational technical training school supported by the State of Arkansas, or (2) any private university, college, junior college, or vocational technical training school located in the State of Arkansas and qualified for tax-exempt status under Arkansas Income Tax Law, or (3) any public elementary or secondary school located in the State of Arkansas.

2.2.8 "Qualified Research Expenditures" shall mean the sum of any amounts which are paid by a taxpayer during the taxable year in funding a qualified research program, and which have been approved for tax credit treatment under rules and regulations promulgated by the Department of Finance and Administration.

2.2.9 "Qualified Research Program" shall mean a research program undertaken by a qualified educational institution which meets the eligibility criteria of the Arkansas Science & Technology Authority's Applied Research Grant Program or Basic Research Grant Program.

2.2.10 "State-of-the-Art Machinery and Equipment" shall mean machinery and equipment which is of the same type, design, and capability as like machinery and equipment which is currently sold or manufactured by donee for sale to customers.

### 3.0 ELIGIBILITY

Industries and individuals that qualify for a Research & Development Tax Credit under this program will be those which satisfy the following criteria:

3.1 Expenditures or donations and sales below cost of machinery and equipment must be made to a qualified educational institution for a qualified research program as defined by these rules.

3.2 The taxpayer must provide the following for each piece of machinery or equipment donated or sold below cost:

3.2.1 A statement from the receiving, qualified, educational institution that:

3.2.1.1 It has received the machinery or equipment;

3.2.1.2 The machinery or equipment is "new" machinery or equipment as defined by these rules;

## R&D Tax Credit Program Rules

- 3.2.1.3 It has received the machinery or equipment as a donation or, if it purchased the machinery or equipment below cost, a statement of the amount paid for the machinery or equipment.
- 3.2.1.4 The machinery or equipment has been donated or sold to the qualified educational institution for use in a qualified research program;
- 3.2.2 A copy of the invoice from the business' supplier, in the case of a donation or sale below cost by a wholesale or retail business, showing the actual cost of the machinery or equipment; and
- 3.2.3 A copy of the manufacturer's wholesale price list, in the case of a donation or sale below cost by a manufacturer, showing the lowest price for the machinery or equipment for which credit is claimed.
- 3.3 In order to claim a tax credit for qualified research expenditures, the taxpayer must provide a statement from the Arkansas Science & Technology Authority that the Arkansas Department of Higher Education and the Arkansas Science & Technology Authority have approved the expenditure as part of a qualified research program.

## 4.0 APPLICATION PROCESS

Application for an Arkansas Income Tax Credit under this program shall be submitted to the Arkansas Science & Technology Authority. The following three documents must be submitted as part of this application:

- 4.1 An application form provided by the Authority must be completed with the following information included:
  - 4.1.1 Name and address of the applicant;
  - 4.1.2 Tax identification number of the applicant;
  - 4.1.3 Name and address of the qualified educational institution conducting the qualified research program;
  - 4.1.4 Title of the qualified research program;
  - 4.1.5 Name and phone number of the contact person for the qualified research program;

## R&D Tax Credit Program Rules

4.1.6 Amount or value of the donation;

4.1.7 Date of the donation;

4.1.8 Any other information that may be required by the Authority.

4.2 A copy of the statement from the receiving educational institution (as described in Section 3.2.1). A copy of the check or receipt for the donation must be included with this statement.

4.3 A copy of the proposal for the research program receiving the donation.

## 5.0 EVALUATION

Proposals for tax credit treatment for expenditures, donations, or sales below cost to qualified research programs will be evaluated on the basis of the following criteria.

### 5.1 EVALUATION CRITERIA

5.1.1 All applications will be reviewed by Authority staff for completeness.

5.1.2 Such proposals will be thoroughly investigated by Authority staff to assure that all eligibility criteria are met.

### 5.2 TAX CREDITS GRANTED

Final decisions on granting tax credits will be made by the Board of Directors of the Arkansas Science & Technology Authority.

## 6.0 NOTIFICATION LETTER

The Board shall notify all taxpayers applying for tax credit treatment under this program of its final decision by letter.

R&D Tax Credit Program Rules

APPROVED by the Arkansas Science & Technology  
Authority on this 16<sup>th</sup> day of November, 2007



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Dr. Gary Phillips  
Chairman, Board of Directors  
Arkansas Science & Technology Authority

APPROVED by the Arkansas Department of Higher  
Education on this 6<sup>th</sup> day of February, 2007.



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Dr. James Percell  
Director  
Arkansas Department of Higher Education



**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT:** Arkansas Science & Technology Authority

**DIVISION:** N/A

**PERSON COMPLETING THIS STATEMENT:** Chris Snider/Communications Manager

**TELEPHONE NO:** 501-683-4405 **FAX NO:** 501-683-4420 **EMAIL:** [chris.snider@arkansas.gov](mailto:chris.snider@arkansas.gov)

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE**

Research & Development Tax Credit Program Rules

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?  
Yes \_\_\_\_\_ No (x)
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

<b><u>Current Fiscal Year</u></b>	<b><u>Next Fiscal Year</u></b>
General Revenue _____ Revenue _____	General
Federal Funds _____ Funds _____	Federal
Cash Funds _____ Funds _____	Cash
Special Revenue _____ Revenue _____	Special
Other (Identify) _____ (Identify) _____	Other

R&D Tax Credit Program Rules

Total \_\_\_\_\_  
Total \_\_\_\_\_

3. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule, and explain how they are affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ \_\_\_\_\_  
No cost

\$ N/A

5. What is the total estimated cost by fiscal year to the agency to implement this rule?

**Current Fiscal Year**

**Next Fiscal Year**

\$806.25 (Newspaper Ads)

\$ N/A

## **TECHNOLOGY DEVELOPMENT PROGRAM RULES**

- 1.0 PROGRAM DESCRIPTION
- 2.1 TYPE OF AWARD
- 2.2 DEFINITIONS
- 3.0 ELIGIBILITY
- 3.1 CRITERIA
- 3.2 CONFLICT OF INTEREST
- 4.0 APPLICATION PROCESS
- 4.1 APPLICATION FORMAT
- 5.0 EVALUATION
- 5.1 TECHNICAL FEASIBILITY
- 5.2 PRODUCTION FEASIBILITY
- 5.3 MARKET FEASIBILITY
- 5.4 ECONOMIC POTENTIAL
- 5.5 PATENTABILITY
- 6.0 INVESTMENT AWARD
- 7.0 FREEDOM OF INFORMATION

## **TECHNOLOGY DEVELOPMENT PROGRAM RULES**

### 1.0 PROGRAM DESCRIPTION

The Arkansas Science & Technology Authority supports cash awards for technology development. The goal of the Technology Development Program is to assist in commercializing new technology-based products and processes through technology development activities. This means that applications for award must have a well-defined project plan showing progression from idea, to prototype, to production.

Because technology development occurs in more or less sequential steps along the technology development spectrum, the program is intentionally flexible and broad in scope. The program is intended to provide "bridge" financing between other programs of the Authority, but is not intended to duplicate any existing program. Therefore, proposed projects that would, in the opinion of the Authority, qualify for other programs of the Authority will not be considered for support under the Technology Development Program.

Both solicited and unsolicited applications will be accepted when officially submitted by a qualified applicant.

### 2.1 TYPE OF AWARD

The Board of Directors awards grants to qualified applicants for technology development projects.

The total maximum award for the development of a given technology is \$100,000.

No match is required for an award under the Technology Development Program. However, the Authority is authorized to collect royalties from sales generated from the developed technology. The execution of a royalty agreement will be a condition for the disbursement of funds from the Authority to the qualified applicant. The royalty agreement will be required in lieu of any other matching resources.

## Technology Development Program Rules

In addition, the Authority is required, by statute, to impose a reasonable, nonrefundable fee for the evaluation of the technological and economic potential of emerging technologies from nonpublic sources of innovation.

### 2.2 DEFINITIONS

2.2.1 "Technology development" shall mean the evolution of innovative products and processes through the following stages:

- The laboratory/workshop stage of development, usually before a working prototype is developed, during which evaluation and protection of the idea are paramount and a market application is identified;
- The workshop/early startup stage of development during which the production and testing of a working prototype are paramount; and
- The late startup/scaleup stage of development during which limited production and market testing of products are paramount.

2.2.2 "Officially submitted" shall mean the delivery to the Authority of a completed project application by a qualified applicant.

2.2.3 "Qualified applicant" shall mean one or more innovators representing any source of innovation in this state, including, but not limited to, Arkansas-based inventors, small businesses, colleges or universities, and federal laboratories.

2.2.4 "Qualified technology" shall mean a technical or science-based product or process.

2.2.5 "Royalty" shall mean an agreement between the Authority, the applicant, and/or the enterprise which will commercialize the developed product or process. This agreement will establish the payback to the Authority based on net sales revenue.

2.2.6 "Nonrefundable fee" shall mean a reasonable fee of \$100 for the evaluation of the technological and economic potential of emerging technologies from nonpublic sources of innovation.

### 3.0 ELIGIBILITY

Eligible applications will be evaluated on the basis of the following criteria. It is the intention of the Authority that eligibility be broadly defined, and that criteria be interpreted liberally so as to include applications to the greatest extent possible.

### 3.1 CRITERIA

## Technology Development Program Rules

- 3.1.1 The proposed technology development project must promote the purpose of the Authority by providing the benefits of science and advanced technology to the State of Arkansas and its people.
- 3.1.2 The application must address technology development.
- 3.1.3 The application must be officially submitted by a qualified applicant.
- 3.1.4 The proposed project must not be eligible for awards under other programs of the Authority.
- 3.1.5 The qualified applicant must possess a developed and well-defined project plan.
- 3.1.6 The nonpublic applicant must submit payment of the nonrefundable fee as defined in section 2.2.6.

### 3.2 CONFLICT OF INTEREST

No Director, officer or employee of the Authority for purpose of personal gain, shall have or attempt to have, directly or indirectly, any interest in any contract or agreement of the Authority in connection with the Technology Development Program.

It shall not be a conflict of interest for the Authority to permit any college or university with which a Director of the Authority is affiliated to participate in any program of the Authority provided that such Director shall promptly disclose the nature of the affiliation to the Board of Directors.

### 4.0 APPLICATION PROCESS

Application for a technology development award shall be submitted in a format prescribed by the Authority.

#### 4.1 APPLICATION FORMAT

- 4.1.1 A cover sheet which includes the following information:
  - 4.1.1.1 Principal's name, address, phone number, fax number, and social security number.
  - 4.1.1.2 Amount of funds requested from the Authority.
  - 4.1.1.3 List of any financial support from sources other than the Authority.
  - 4.1.1.4 A signed and dated statement affirming the accuracy of information in the application.
  - 4.1.1.5 A nonrefundable fee for nonpublic applicants as defined in section 2.2.6.

## Technology Development Program Rules

4.1.2 A project plan which includes the following information:

4.1.2.1 The description of the proposed product, process, or technical innovation (including drawings).

4.1.2.2 An assessment (if applicable) of previous research and development efforts that strengthen technical claims.

4.1.2.3 Potential sources of prototype development.

4.1.2.4 Description of any barriers to production of the product (e.g. process, materials, safety, or environmental).

4.1.2.5 Description of the product to be commercialized, including potential manufacturers, distributors, marketing, etc.

4.1.2.6 Probable market niche.

4.1.2.7 Description of the implementation plan for the accomplishment of the project. Include a timetable, a narrative description of the use of funds, and listing of any required supporting facilities, equipment, and personnel.

4.1.2.8 Budget for the project period.

4.1.2.9 Description of the qualifications of key personnel, including resumes.

4.1.2.10 Statement of economic impact (e.g. potential job creation, export potential, value added to existing products).

4.1.2.11 Description of all methods used to protect intellectual properties (disclosure documents, patents, trademarks, copyrights, etc.).

4.1.2.12 A signed and dated Confidential Information Agreement.

## 5.0 EVALUATION

Projects will be evaluated by the Authority which may request the assistance of appropriate representatives from academia, private industry, and/or the public sector. The evaluation will indicate the level of potential of the project based on the following factors.

### 5.1 TECHNICAL FEASIBILITY

Is there a sufficient description of the proposed product, process, or innovation provided for a sound technical evaluation? Is the invention not based upon principles that contradict the laws of science? Is there previous research or development efforts that

## Technology Development Program Rules

substantiate the technical feasibility? Does it require redesign, rebuilding, and/or further testing? How is it technically innovative?

### 5.2 PRODUCTION FEASIBILITY

Can it be produced economically and in sufficient quantities using existing production technology? Can it be produced safely meeting legal, liability, product infringement, and pollution guidelines? How many sources are willing to produce it?

### 5.3 COMMERCIAL FEASIBILITY

What specific customer needs does the product satisfy? Will the market support the product? Who is the competition? Does the product, process, or innovation provide a competitive edge? Is there adequate financial support? Does the budget support the implementation plan? Is the commercialization plan valid? Can key personnel support the project?

### 5.4 ECONOMIC POTENTIAL

Will the product impact Arkansas economy? Does it have job creation potential? Does it add value to existing products? Can it be exported?

### 5.5 PATENTABILITY

Has a patent been applied for? Are there similar patents granted? Can the concept be protected by a patent?



## Technology Development Program Rules

### 6.0 INVESTMENT AWARD

Funds will be disbursed by the Authority only after the Board of Directors adopts a resolution authorizing an award to the applicant.

### 7.0 FREEDOM OF INFORMATION

All information submitted in proposals is subject to the provisions of the Freedom of Information Act. Therefore, if proprietary information is submitted by the applicant, it should be clearly marked as "confidential proprietary information." The Authority assumes no liability for disclosure or use of unmarked information, and may use or disclose such information for any purpose. Arbitrary and unwarranted use of this restriction by applicants is discouraged.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT:** Arkansas Science & Technology Authority

**DIVISION:** N/A

**PERSON COMPLETING THIS STATEMENT:** Chris Snider/Communications Manager

**TELEPHONE NO:** 501-683-4405 **FAX NO:** 501-683-4420 **EMAIL:**

[chris.snider@arkansas.gov](mailto:chris.snider@arkansas.gov)

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

3. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule, and explain how they are affected.

Technology Development Program Rules

**Current Fiscal Year**

\$ \_\_\_\_\_  
No cost

**Next Fiscal Year**

\$ N/A

5. What is the total estimated cost by fiscal year to the agency to implement this rule?

**Current Fiscal Year**

\$806.25 (Newspaper Ads)

**Next Fiscal Year**

\$ N/A