

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE**  
**CHAPTER 175. PREP INFRASTRUCTURE PROJECTS PROGRAM**

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1. PREP Infrastructure Projects Program [NEW]  
150:175-1-1. Purpose [NEW]  
150:175-1-2. Definitions [NEW]  
150:175-1-3. Eligibility requirements [NEW]  
150:175-1-4. The award [NEW]  
150:175-1-5. Use of funds and reporting requirements [NEW]  
150:175-1-6. The application; submittal of application documents [NEW]

**AUTHORITY:**

HB 1019, 74 O.S. §§ 5001 et seq.;

**ADOPTION:**

February 17, 2023

**EFFECTIVE:**

Immediately upon Governor's approval

**EXPIRATION:**

Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

This rule is necessary because a compelling public interest requires an emergency rule and imminent peril exists to the preservation of public welfare. Adoption of these rules provides the mechanism to receive funds designated by the legislature. Failure to adopt these emergency rules will cause these funds to not be utilized in accordance with the enacting language. These negative impacts will be felt even more strongly in rural Oklahoma as many of these nonprofits serve citizens in these rural areas.

**GIST/ANALYSIS:**

This action establishes the application process for the PREP Fund program as found in HB 1019. It also provides criteria to qualify for these funds.

**CONTACT PERSON:**

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

**SUBCHAPTER 1. PREP INFRASTRUCTURE PROJECTS PROGRAM**

**150:175-1-1. Purpose**

The PREP Infrastructure Projects Program ("PREP" or "the program") is designed to provide rules and program information for the Progressing Rural Economic Prosperity Fund created in Enrolled House Bill No. 4456 of the 2nd Session of the 58th Oklahoma Legislature, the sum of Twenty-nine Million Nine Hundred Fifty Thousand Dollars (\$29,950,000.00) or so much thereof as may be necessary to fund facility upgrades, including electric, water, natural gas, sewer, fiber, site access and land remediation at industrial parks, airparks, and ports in counties not receiving funding from the Pandemic Relief Primary Source Revolving Fund or Pandemic Relief Secondary Source Revolving Fund, both created by Enrolled House Bill No. 1021 of the 2nd Extraordinary Session of the 58th Oklahoma Legislature, provided that the Department distributes such funds evenly amongst the congressional districts of the state so as to provide statewide economic impact.

**150:175-1-2. Definitions**

The following words and terms, when used in this Subchapter have the following meanings, unless the context clearly indicates otherwise:

"Applicant(s)" means communities or organizations responsible for applying for PREP funds on sites designated by the State Legislature.

"Department" means the Oklahoma Department of Commerce.

"Project(s)" means economic development infrastructure that support sites or surrounding communities identified by State Legislature.

**150:175-1-3. Eligibility requirements**

(a) Eligible projects:

(1) Projects are economic development infrastructure design, development, and construction that supports sites or surrounding communities in the creation of nationally marketable industrial sites. The PREP applicant must:

- (A) Be located in Oklahoma;
- (B) Agreeing to enter into a written agreement with the Department;
- (C) Be in compliance with applicable Oklahoma and federal tax laws; and
- (D) If applicant is awarded PREP funds, register as a state supplier via the Oklahoma Management and Enterprise Services (OMES). This step is not required until the applicant has been given a tentative award notification from the Department.

(b) Ineligible projects:

(1) A project as defined in these rules and the following requirements must be met or the projects are ineligible for PREP:

- (A) The Department shall distribute such funds evenly amongst the congressional districts of the state so as to provide statewide economic impact;
- (B) Applicants or Projects that do not meet the definition of "eligible project"; and
- (C) Applicants or Projects the Department deems as not creating a feasibly marketable site in compliance with the intent of the legislative funding.

**150:175-1-4. The award**

(a) Amount of award:

- (1) The Department shall distribute such funds evenly amongst the congressional districts of the state so as to provide statewide economic impact.
- (2) The Department may distribute larger awards to larger Projects to complete infrastructure projects to complete certain sites as the Department deems appropriate.
- (3) The Department is allowed to keep two (2) percent from each project awarded for administrative cost.

**150:175:1-5. Use of funds and reporting requirements**

(a) Permissible uses of funds:

- (1) Awards received through this program are intended to install industrial infrastructure into sites designated by the Legislature.
- (2) Projects using PREP funds must create economic development infrastructure that support sites or surrounding communities.
- (3) Funds impermissibly used shall be repaid by the applicant to the State within thirty (30) days of a written request for repayment transmitted to the applicant by the State.

(b) Reporting requirements:

(1) Applicants that receive funds from the program are required to keep specific records of all expenses for which the funds were used, for a period of seven (7) years. Upon request, the applicant or project shall provide access to these records to the State of Oklahoma, its agencies, agents, directors, and/or any party that has contracted with the State for the exclusive purposes of evaluating or ensuring compliance with PREP program requirements.

(2) At their own expense, the applicant shall prepare photocopies or upload documents to OKGrants or other portal used by the Department of all required documents and deliver said documents to the State or any of the aforementioned parties upon written request within a reasonable time of the request.

(3) In the event that the applicant ceases operations as an entity or of the project during this seven (7) year period, the applicant must provide photocopies or electronic photocopies of these records to the Executive Director of ODOC within thirty (30) days of ceasing operations.

(4) Failure to abide by any reporting requirement shall require the applicant to repay PREP funds to the State of Oklahoma within thirty (30) days of a written request for repayment.

**150:175-1-6. The application; submittal of application documents**

(a) Transmittal of documents and receipt:

(1) Applicants shall review all requirements in the authorizing legislation related to PREP as well as the requirements listed in this document before applying for funds. Applicants must be able to submit documents via the required online portal and must be able to utilize the required login procedures as prescribed by the OKGrants online grant management system or any system utilized by the Department.

(b) Required Documents to be submitted by the applicant Nonprofit to the OKGrants online portal or any system utilized by the Department.

(2) Applicants shall submit an application packet consisting of the following documents and attestations in the OKGrants online portal or any system utilized by the Department:

(1) Scope of work including details of the project as well as the timeline for completion;

(2) Budget for the project including Construction, Professional, and Non-Construction costs;

(3) Maps of the project include overview of site, dimension and locations of improvements, and locations of utilities, water areas, and existing infrastructure. Mapping must include a site outline with indication of Contiguous Developable Area;

(4) An assessment of the economic performance created by the investment of infrastructure funding;

(5) Attestation that the applicant is in compliance with both federal and Oklahoma tax laws;

(c) An applicant shall only submit one application to the OKGrants online portal or any system utilized by the Department. Violation of this rule by submission of multiple applications to may cause the applicant to be denied participation in the program by the Department.

(d) Failure to complete the required online application and attach all of the required documents may cause the application not to be deemed received by the Department.

**ATTESTATION**

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of new Chapter 150, which was adopted by The Oklahoma Department of Commerce on February 17, 2023 under emergency rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et. seq.

I, the undersigned, do hereby attest that such rules were adopted in substantial compliance with the Administrative Procedures Act.



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Thomas Grossnicklaus, Attestation Officer  
General Counsel and Chief of Staff  
Oklahoma Department of Commerce  
February 17, 2023

**SIGNATURE OF REPRESENTATIVE**

Signature of Representative

By my signature below, and on behalf of the applicant, I hereby certify the following to be true and correct under penalty of perjury:

- I am an authorized representative for the applicant.
- I have read and understand the rules contained in this application and agree to follow each of them.
- I acknowledge that failure to follow the rules contained in this application may cause the receipt of the application by ODOC to be delayed or may cause the application to be denied by ODOC.
  
- On behalf of myself and the applicant, I hereby hold harmless the State of Oklahoma, ODOC, the agents, employees or officers of these groups against any liability, loss or damages arising out of either application to or participation in this program and waive any claims that the applicant or I may have against these persons or groups to the maximum extent allowable by law. By way of example, this specifically includes, but is not limited to, any loss, damages or injury arising from the failure of the recipient to timely transmit the application packet to ODOC and/or the failure of ODOC to receive, locate or timely process the application received by ODOC from the recipient.

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

Printed Name: \_\_\_\_\_

Name of Organization \_\_\_\_\_

Title: \_\_\_\_\_

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