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OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Fire Station Rehabilitation and Construction Grant Program
- 2) Code Citation: 41 Ill. Adm. Code 296
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
296.10	New Section
296.20	New Section
296.30	New Section
296.35	New Section
296.40	New Section
296.50	New Section
296.55	New Section
296.60	New Section
296.70	New Section
296.75	New Section
296.80	New Section
- 4) Statutory Authority: Authorized by Section 2.8 of the State Fire Marshal Act [20 ILCS 2905/2.8].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules provide the administrative framework necessary to implement the portion of Public Act 103-0008 (eff. 6/7/2023), which amended the State Fire Marshal Act [20 ILCS 2905] to require that Office of the State Fire Marshal (OSFM) establish and administer a fire station rehabilitation and construction grant program. Requires the grant applicant to abide by the Grant Accountability and Transparency Act (GATA) [30 ILCS 708], which includes that the grant recipient have an active registration under GATA and have a status of "qualified" on the GATA Grantee Portal (<https://grants.illinois.gov/portal>) at the time the grant application is submitted to OSFM. If there are enough applications to do so, the proposed rules will set aside 60% of grant funds for volunteer and combined fire departments and the remainder for the other (paid) departments. The rules also include definitions, grant requirements, eligibility requirements, provisions on the authorized use of grant monies, recordkeeping obligations, and a requirement that upon project completion the grant recipient continue to operate the fire station as a fire station for 10 years or such other period as identified in the Notice of Funding Opportunity. Also makes non-substantive changes.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

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- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Tom Andryk
Legal Division
Attn: Part 296 Rules
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, IL 62703

(217) 785-5758
Facsimile: (217) 524-5487
SFM.296rulemaking@fdmail.sfm.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will provide economic resources for units of local government to carry out needed work to rehabilitate or construct a fire station.
 - B) Reporting, bookkeeping or other procedures required for compliance: The grant recipients will need to become grant-qualified under the procedures established by the Office of Management and Budget for the Grant Accountability and Transparency Act (GATA). The grant recipient shall keep records of all costs, which records shall be available for audit by OSFM and the State Auditor General, and at the conclusion of the grant period, shall submit to the Office a

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report detailing how the grant proceeds were used. Upon completion of the capital grant project, the grant applicant must continue to operate the fire station as a fire station for at least 10 years or such other period as may be identified in the Notice of Funding Opportunity issued by the OSFM.

- C) Types of professional skills necessary for compliance: Ability to become conversant with how to become grant-qualified under the procedures established by the Office of Management and Budget for the Grant Accountability and Transparency Act (GATA), to keep records of all costs, and to prepare and submit a final project report detailing how the grant proceeds were used. Ability to follow the procedures and requirements of the capital grant agreement with OSFM.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule: None
- B) Categories that the agency reasonably believes the rulemaking will impact, including: None
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2024

The full text of the Proposed Rules begins on the next page:

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 296

FIRE STATION REHABILITATION AND CONSTRUCTION GRANT PROGRAM

Section

296.10	Definitions
296.20	Purpose
296.30	Eligibility
296.35	Use of Grant Monies
296.40	Grant Application Procedure and Content
296.50	Grant Applications Review Committee
296.55	Prescreening of Grant Applications by the Office
296.60	Criteria for Review of Grant Applications
296.70	Terms and Conditions of Grant Agreement
296.75	Disbursement of Grant Funds
296.80	Request for Reconsideration

AUTHORITY: Authorized by Section 2.8 of the State Fire Marshal Act [20 ILCS 2905/2.8].

SOURCE: Adopted at 48 Ill. Reg. _____, effective _____

Section 296.10 Definitions

The following definitions apply to terms used in this Part:

"Combination fire department" means a fire department that has volunteer firefighting personnel and paid firefighting personnel, including, but not limited to, paid-on-call personnel.

"Committee" means the Grant Applications Review Committee established in Section 296.50.

"Fire Department" means a fire department, fire protection district or township fire department that is a unit of local government in Illinois that provides fire suppression within a geographical area. For purposes of this Part, fire department is defined to include volunteer fire departments and volunteer fire protection districts.

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"Fire Department Identification Number" or "FDID" means the unique identification number issued by the Office to fire departments that register for participation in the National Fire Incident Reporting System (NFIRS).

"Fire Station" means a building or a structure set aside for storage of firefighting apparatus (i.e., fire trucks, pumpers, ladder trucks, elevating platforms, rescue trucks, tankers, brush trucks, squad trucks, and related emergency response and other vehicles), personal protective equipment, fire hose and other fire extinguishing equipment. It may also have dormitory living facilities and work areas such as offices, meeting rooms, a workshop, or laundry. The term also includes additions for existing buildings as well as fully new construction.

"Office" means the Office of the State Fire Marshal.

"Program" means the Fire Station Rehabilitation and Construction Grant Program.

"Rehabilitation" means to restore, improve or modify a fire station or portion thereof.

"Units of local government" means counties, municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts. [Ill. Const. 1970, Art. VII, Sect. 1]

"Volunteer fire department" means a fire department that has only volunteer firefighting personnel.

Section 296.20 Purpose

The Office shall administer a program to provide grant funds for the rehabilitation and construction of fire stations operated by units of local government. The Office shall determine grant awards based on space needs, financial need, and how recently the applicant has received a previous grant under this program. Grants for the rehabilitation and construction of fire stations shall not exceed \$350,000 in any single fiscal year to any unit of local government under this program.

Section 296.30 Eligibility

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- a) Fire department applicants must have participated in the National Fire Incident Reporting System (NFIRS) for a minimum of two years prior to the application for the fire station rehabilitation and construction grant, except that fire departments that were issued a Fire Department Identification Number by the Office less than two years prior to the application are eligible to apply for a fire station rehabilitation and construction grant if they have participated in NFIRS since the date their FDID was issued by the Office. The applicant must have an active registration under the Grant Accountability and Transparency Act (GATA) [30 ILCS 708/1 et seq.] and have a status of "qualified" on the GATA Grantee Portal (<https://grants.illinois.gov/portal>) at the time the application is submitted. The applicant must also have its own FEIN issued by the Internal Revenue Service for federal income tax purposes.
- b) Fire protection entities that are not a unit of local government are not eligible to apply for a grant under this program.
- c) Units of local government that do not operate fire departments are eligible for grants under this program (e.g., a municipality that contracts for fire suppression from another municipality, fire protection district, or for-profit or not-for-profit business); however, if a unit of local government contracts for fire protection service from another unit of local government that has applied for a grant under this program, the unit of local government contracting to receive the services is prohibited from receiving a grant under this program.
- d) Applicants must demonstrate that the fire station for which the grant is sought will continue to be operated by the applicant as a fire station for at least 10 years, or such other period as may be identified in the Notice of Funding Opportunity (NOFO) issued by the Office. If, within 10 years after the completion of the project for which a grant was made under this Part, or within such other period as may be identified in the NOFO issued by the Office, the grant recipient ceases to use the fire station as a fire station, the grant recipient shall refund to the OSFM a prorated amount of the grant based on the number of months the grant recipient was not in compliance (for example, out of a total of 120 months if the compliance period is 10 years). Any partial month of noncompliance shall be included in the repayment amount.
- e) A minimum of 60% of grant funds shall be set aside for volunteer or combination departments. If this percentage cannot be met due to the lack of approved

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applications from these types of fire departments, the remaining funds may be allocated to non-volunteer or non-combination departments.

Section 296.35 Use of Grant Monies

- a) A recipient of a fire station rehabilitation and construction grant under this Part may use the grant monies to do one or more of the following:
 - 1) Construction of an addition to or otherwise expanding or the rehabilitation of an existing fire station;
 - 2) New construction of a fire station or renovations to an existing fire station in order to create a new fire station;
 - 3) Acquisition of a fire station;
 - 4) Purchase or replacement of real property fixtures; and
 - 5) Safety improvements.
- b) Applicants that seek to purchase a site with a portion of grant monies will be required to obtain an appraisal and submit it to the Office to establish the site's fair market value. Applicants that seek to rehabilitate or expand a currently owned fire station must demonstrate an ownership interest in the property to be improved, either fee simple title or other means of legal control and tenure (easement, long-term lease, etc.).

Section 296.40 Grant Application Procedure and Content

- a) Application Procedure.
 - 1) Subject to the availability of appropriated funds, the Office will make application forms for fire station rehabilitation and construction grants under this program available to all Illinois fire departments.
 - 2) A completed original application form shall be signed by the duly authorized officers of the applicant.

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- 3) Applications shall be returned, by the date specified on the form, to the Office of the State Fire Marshal, Attention: Fire Station Rehabilitation and Construction Grant Program, 1035 Stevenson Drive, Springfield, Illinois 62703-4259.
 - 4) Applications received at the Office shall be logged in as received and assigned an application number.
- b) Application Content. Each grant application shall include the following information:
- 1) Identifying information for the applicant fire department and its unit of local government.
 - 2) A detailed description of the applicant's need for the proposed rehabilitation or construction work.
 - 3) Identification of fire department or local government personnel to serve as contacts for information.
 - 4) Information on the applicant's two most recent budgets.
 - 5) Any other information or documentation the Office may require to demonstrate or support the information submitted by the applicant or to otherwise determine the applicant's eligibility under this Part.
- c) Review of Applications. Applications shall be assessed by blind review, meaning the Committee shall not see the name, address or any specific information that identifies the applicant. The Committee shall review and rank the applications based on assessment of need and information provided in the grant application.
- d) Grant Award. After the Committee's review and ranking of applications, grant awards will be determined, subject to appropriation of the funds being made available by the State for grants under this program.

Section 296.50 Grant Applications Review Committee

- a) The State Fire Marshal shall appoint a Grant Review Committee to determine which applicants will receive grants and the amount of the grant. If, for any

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reason, a successful applicant is unable to fulfill the terms of the grant or withdraws the request after it has been approved, the application's priority shall be used to determine which of the unsuccessful applicants will be next to be offered a grant in place of the withdrawing department.

- b) The Committee shall consist of the following seven members:
 - 1) The State Fire Marshal, or his or her designee, as Chair;
 - 2) Three current or former Fire Chiefs (one each from a volunteer department, a combination department and a career/municipal department);
 - 3) One representative from the Associated Fire Fighters of Illinois;
 - 4) One member who is a current or former volunteer firefighter; and
 - 5) One member representing the Illinois Association of Fire Protection Districts.
- c) Members shall serve without salary, but may be reimbursed for reasonable expenses by the Office from appropriations for that purpose.
- d) Members shall serve a term of four years.
- e) Upon the expiration of a member's term, the State Fire Marshal may reappoint that member or appoint a successor who is a representative of the same interests with which his or her predecessor was identified.
- f) Replacement of a Member
 - 1) The State Fire Marshal may, at any time, remove any of the respective appointees for inefficiency or neglect of duty in office.
 - 2) A member shall continue to serve only as long as he or she holds the position that made that individual eligible to serve under the criteria prescribed by subsection (b).

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- 3) In the instances described in subsections (f)(1) and (2), or upon the death or incapacity of a member, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests with which his or her predecessor was identified.
- g) Meetings of the Committee shall occur as often as deemed necessary by the Chair, at a date, time and place to be fixed by the Committee (or by the Chair, should he or she call for the meeting) and at such additional times as the Committee deems necessary to consider any business as may properly come before it.
- h) A quorum shall be a majority of the appointed positions that have been filled by appointment. Unfilled positions shall not be counted.
- i) No Committee member affiliated with a fire department that has a pending application for a loan under this program shall participate in the review of that fire department's application.
- j) Members of the Committee are required to participate in all mandatory annual trainings, including, but not limited to, ethics and harassment & discrimination prevention training. Upon completion of the required training programs, members of the Committee must certify that they have completed the training programs.
- k) Members of the Committee are required to execute a confidentiality statement agreeing not to disclose any information gained during the course of their service on the Committee.

Section 296.55 Prescreening of Grant Applications by the Office

The Office will conduct a prescreening of all grant applications received by the deadline to identify applicants with the greatest need as determined under this Section. The steps of this prescreening are provided in this Section.

- a) The Office will evaluate whether each application was received by the deadline, whether the applicant has met the eligibility requirements of Section 296.30 as of the application deadline date, and whether the applicant has fully completed all sections of the application. Only those applicants that meet these eligibility requirements will receive further consideration.

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- b) To assist the Committee in making final determinations of grant awards, the Office will then rank complete applications of eligible applicants using the following criteria:
- 1) The Office will use information provided by the applicant on its operating budget, square miles served and population served in developing a ranking of financial need.
 - 2) The Office will divide each applicant's budget by the square miles served to determine the applicant's budget per square mile and will rank the applicants lowest to highest.
 - 3) The Office will divide each applicant's budget by the population served to determine the applicant's budget per person and will rank the applicants lowest to highest.
 - 4) The Office will then average the two rankings of each applicant to reach an overall ranking.
- c) Applicants that have previously received a grant from the Office under this program will be ranked against each other according to the criteria in subsection (b), but this group of applicants will be ranked below all applicants that have not previously received a grant under this program.
- d) Using the ranking criteria identified in subsections (b) and (c), the Office will rank the applications. Based upon the grant amount requested by each applicant, the Office will provide the Committee with complete application information for the top ranked applications totaling at least 1½ times the amount of available appropriations for the Committee's determination for that grant cycle.

Section 296.60 Criteria for Review of Grant Applications

- a) The Committee will consider the following criteria and assign point totals when determining grant recipients. The Committee will only consider applications that have met the eligibility requirements of Section 296.30.
- 1) Space Need – 0-50 points

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- A) The applicant does not currently own a fire station and desires to have one constructed.
 - B) The applicant currently owns a fire station but is requesting funds for its rehabilitation.
 - C) The applicant is unable to construct or rehabilitate the fire station without a grant, cannot rent the required space on a consistent or as needed basis (due to geographical distance, availability, etc.), or there are other unique needs involved in the request.
- 2) Financial Need – 0-50 points
- A) Will be determined by considering the total budget of the applicant as an available resource.
 - B) The cost of the rehabilitation or construction being requested is prohibitively expensive given the applicant's total budget.
- b) Those applicants receiving a grant in the most recent previous grant application cycle will not be considered until all applicants who have never received a grant but are requesting a grant have been considered as provided in Section 296.55(c).

Section 296.70 Terms and Conditions of Grant Agreement

An applicant that has been approved to receive a grant under this program must enter into a Grant Agreement with the Office. The Grant Agreement shall contain, at a minimum, the following terms:

- a) Grant recipients may receive advance payment for part or all of the cost of rehabilitation or construction of a fire station as approved as part of the grant application.
- b) Grant proceeds shall be used exclusively for the purposes listed in Section 296.20 and shall be expended in accordance with this Part and the Grant Agreement.
- c) In the event that the grant proceeds are not expended in the manner approved, the grant recipient, upon written notification from the Office, shall refund the full

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amount of the grant award. Recovery of grant funds shall be accomplished in accordance with the Illinois Grant Funds Recovery Act [30 ILCS 705].

- d) Use of grant proceeds shall be accounted for in accordance with standard accounting practices. The grant recipient shall provide documentation concerning the rehabilitation or construction of a fire station as specified in the grant application, the cost of the rehabilitation or construction of a fire station, and the completion of the rehabilitation or construction project by the grant recipient's contractor or contractors.
- e) The grant recipient shall keep adequate records relating to its administration of the grant project, particularly relating to all incurred costs. These records shall be available for audit by appropriate personnel within or on behalf of the Office and the State Auditor General. All records shall be retained in accordance with the State Records Act [5 ILCS 160]. At the conclusion of the grant period, grant recipients shall submit to the Office a report detailing how the grant proceeds were used. This final expenditure report, to be submitted on a form supplied by the Office, shall be due not later than 90 days following completion of the grant project.
- f) The grant recipient is responsible for monitoring possession, use, condition and final disposition of the fire station constructed or rehabilitated with grant funds.
- g) Grant proceeds shall be included in the grant recipient's budget.
- h) The availability of grant proceeds is subject to availability of appropriated State funds.
- i) The grant recipient shall reference any provisions that the grant recipient is required to include in any publicly bid contract for project work (e.g., scale of wages, liability insurance requirements, adherence to the Employment of Illinois Workers on Public Works Act [30 ILCS 570], etc.);
- j) In connection with and prior to the rehabilitation or construction and the subsequent operation and maintenance of fire station rehabilitation and construction grant program assisted fire stations, it shall be understood that the grant recipient is responsible for obtaining any and all necessary construction permits, licenses or forms of consent, as required by law. Failure to obtain any required permits may jeopardize approved grant funding.

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- k) The grant recipient and its selected contractors must observe and comply with the provisions of the Prevailing Wage Act [820 ILCS 130/4], which apply to the wages of laborers, mechanics and other workers employed in any public works, and with the prevailing wage requirements of the Illinois Procurement Code [30 ILCS 500/25-60].
- l) Pursuant to Section 2-105(A)(4) of the Human Rights Act [775 ILCS 5], the grant recipient and any contractors engaged for the project shall maintain a written sexual harassment policy that includes, at a minimum, the following information:
- 1) the illegality of sexual harassment;
 - 2) the definition of sexual harassment under State law;
 - 3) a description of sexual harassment utilizing examples;
 - 4) the contractor's internal complaint process, including penalties;
 - 5) the legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and
 - 6) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act [775 ILCS 5]. A copy of the policy shall be provided to the Department of Human Rights upon request.
- m) It shall be understood by the grant recipient that a representative or agent of the Office may make periodic inspections of the project as rehabilitation or construction progresses and that a final inspection may be required and if required will be made by a representative or agent of the Office prior to final payment of grant reimbursement to the grant recipient.
- n) Projects assisted with fire station rehabilitation and construction grant program funds shall be implemented in accordance with all applicable federal, State and local laws, ordinances and regulations relating to public agency expenditure of funds for public works projects and all other applicable laws.

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- o) All financial records on approved projects must be maintained and retained, in accordance with the Grant Funds Recovery Act [30 ILCS 705] and the State Records Act [5 ILCS 160], by the grant recipient for possible State audit after final reimbursement payment is made by the Office.
- p) The grant recipient shall indemnify, protect, defend and hold harmless the Office from any and all liability, costs, damages, expenses, or claims thereof arising under, through or by virtue of the rehabilitation or construction of grant-assisted fire stations.
- q) The grant recipient shall certify that it will comply with the Illinois Works Jobs Program Act Apprenticeship Initiative [30 ILCS 559/20-20] and the Illinois Accessibility Code [71 Ill. Adm. Code 400] as part of the application.
- r) The grant agreement shall also include any other terms or requirements specified in the Notice of Funding Opportunity issued by the Office.

Section 296.75 Disbursement of Grant Funds

- a) A minimum of 50% of a grant awarded by the Office will be paid in advance to the grant recipient after the grant agreement is fully executed in accordance with the policies and procedures of the Office of the State Fire Marshal and the Illinois Comptroller's Office.
- b) The remainder of the grant award will be made subject to the grant recipient's submission and certification of eligible costs incurred, along with any documentation required by the Office. Expenditure of grant funds advanced pursuant to this Part to the grant recipient cannot be claimed for reimbursement payments. However, the grant project may be funded by other grants so long as the same expenses sought for payment are not being reimbursed or covered a second time.
- c) Grant funds paid in advance must be kept in a separate interest-bearing account with a federally or Illinois regulated financial institution that is insured with the Federal Deposit Insurance Corporation (FDIC), and maintained therein until used in the execution of the approved project. All interest earned on grant funds held by a grant recipient shall become part of the grant principal when earned, and be used for and in the same manner as the principal to fulfill the purposes and objectives of the grant.

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- d) Pursuant to Section 45 of the State Finance Act [30 ILCS 105/45], for grants awarded for which \$250,000 or more is advanced to a grant recipient for capital construction costs or professional services, the grant recipient must provide written certification that the grant recipient is in compliance with the business enterprise program (BEP) practices for minority-owned businesses, female-owned businesses, and businesses owned by persons with disabilities (see the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] and the equal employment practices of Section 2-105 of the Illinois Human Rights Act [775 ILCS 5/2-105]).

Section 296.80 Request for Reconsideration

- a) Those applicants whose grant applications are denied by the Committee shall be notified by mail.
- b) Notice of denial of a grant shall be deemed received on the date of the postmark. The applicant has 30 calendar days from that date to forward to the Committee a Request for Reconsideration.
- c) The Request for Reconsideration of a denial of a requested grant shall be submitted to the Office of the State Fire Marshal, Attention: Fire Station Rehabilitation and Construction Grant Program, 1035 Stevenson Drive, Springfield, Illinois 62703-4259 and shall be deemed submitted on the date of the postmark.
- d) The Request for Reconsideration of a denial of a requested grant may be accompanied by supporting documents and information not previously considered by the Committee. The Committee shall review the Request for Reconsideration. A denial of the Request for Reconsideration shall be final. While a Request for Reconsideration is pending, the grant application that is the subject of the Request for Reconsideration shall be deemed denied.