

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: [Department of Public Safety \(DPS\) - Division of Emergency Medical Services \(EMS\)](#)

Regulation/Package Title: [Grants](#)

Rule Number(s): [O.A.C. Rules 4765-5-01 to 4765-5-06](#)

Date: [June 29, 2016](#)

Rule Type:

☐ New

☒ Amended

☐ No Change

☒ 5-Year Review

☒ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Chapter 4765-5 of the Administrative Code (O.A.C.) includes six rules that describe the grant programs administered by the State Board of Emergency Medical, Fire, and Transportation Services (EMFTS) as authorized by section 4765.07 of the Revised Code (R.C.) using the trauma and emergency medical services fund established in section 4513.263 of the R.C. Two grant programs are available – one to eligible EMS organizations and one to research entities. The proposed rules include documents incorporated by reference, which are the two grant program applications; eligibility criteria; the general provisions; and restrictions and requirements made on awardees.

Amendments have been proposed to O.A.C. Chapter 4765-5 to eliminate potential conflicts of interest, restrict the Priority 1 awards to Ohio EMS providers, eliminate any repetition of R.C. 4765.07, and eliminate repetition of administrative procedures provided in the applications and agreements. Rescinding rule 4765-5-06 is proposed, because the information is included in the grant applications or was moved to rule 4765-5-05.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Sections 4765.07 and 4765.11 of the R.C. authorize the State Board of EMFTS to adopt these rules.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.

The rules in Chapter 4765-5 do not implement a federal requirement and do not enable the state to obtain or maintain approval to administer and enforce a federal law or participate in a federal program.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

The rules in Chapter 4765-5 do not include provisions required by the federal government.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

Division (A) (20) of section 4765.11 of the R.C. requires the State Board of EMFTS to establish "Procedures for administering the emergency medical services grant program established under section 4765.07 of the Revised Code."

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success of the rules in Chapter 4765-5 is based on eligible grantees using the available grant funds to improve and enhance EMS and trauma patient care in the state of Ohio consistent with the requirements of section 4765.07 of the R.C.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

EMS staff worked with members of the Resource Management Committee (until the committee was terminated by a motion of the State Board of EMFTS on February 18, 2016) and members of EMFTS Board; with members of the DPS legal staff and Ohio Ethics Commission staff; and with current applicants and grantees of the training and equipment grant and research grant programs.

Beginning in 2013, EMS staff worked with a member of the DPS process improvement team. The process used to review, score, and award research grants was reevaluated. Data collected about previous rounds of the Priority 1 EMS grant program, which provides funds for the purchase of equipment used by emergency medical services (EMS) personnel and for training EMS personnel, was collected, reviewed, and analyzed.

On April 28, 2016, a copy of the proposed changes to Chapter 4765-5 of the O.A.C. and a request for public comment was sent to 1,089 current grantees of the training and equipment grant and research grant programs, and to the University of Dayton's EMS program, which had contacted the division about the EMS grant program within the previous twelve months. Twenty-nine emails were returned as undeliverable. The stakeholders were asked to respond by May 12, 2016.

Members of the EMFTS Board received a copy of the proposed changes to O.A.C. Chapter 4765-5 by email prior to the Board's April 20, 2016 meeting and were asked to provide comments by April 27, 2016. The EMFTS Board received a copy of the proposed changes to O.A.C. Chapter 4765-5 as part of its May 18, 2016 meeting packet, and members were advised that a motion to approve filing the rules and required documents with the CSI office would be requested at the June 15, 2016 meeting. Before the June 15, 2016 EMFTS meeting, Board members received a copy of the revised rules proposed for filing and the business impact analysis to be filed with CSI and, at the June 15, 2016 EMFTS meeting, passed a motion to approve the CSI filing.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

No comments were received during the comment period that ended on April 27, 2016. One stakeholder comment was received during the two-week comment period initiated by the April 28, 2016 email sent to stakeholders. The comment suggested adding requirements that any agency found to be non-compliant with rule 4765-5-05 of the O.A.C. return the grant award funds in addition to being subject to criminal charges. As provided in paragraph (K) of O.A.C. rule 4765-5-05, the division may investigate non-compliance issues and refer them to the attorney general's office, which could file criminal charges and require that grant award funds be repaid. It was not necessary to revise the rules to implement the recommendation.

In late 2013, the Division of EMS and its DPS legal advisors sought guidance from the Ohio Ethics Commission to eliminate possible conflicts of interest among the EMFTS Board members and committee members regarding the EMS grant programs. During 2013 through

2015, a member of the DPS process improvement team assisted the EMS staff in revising the research grant review process and restructuring the training and equipment grant program. Staff reviewed other grant programs that operate with state funds and the oversight of state boards, committees, and agencies to compare those regulations with the EMS grant rules. Based on the work done with the Ohio Ethics Commission and the DPS process improvement team member, the rules have been revised to ensure compliance with Ohio Ethics laws by distancing the EMFTS Board members from the review, scoring, and administrative provisions of grant awards and shifting those responsibilities, where possible, to the Division of EMS and to a research grant review panel. Consultation with the Ohio Ethics Commission and DPS legal staff influenced the EMFTS Board's decision to terminate the Resource Management Committee.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Recommendations based on the process improvement review and analysis included instituting a needs-based application and award process and directing funding toward equipment determined to be essential by the EMFTS Board, which could require an increase in award amounts. At its October 2015 meeting, the EMFTS Board approved a motion to restructure the Priority 1 awards. In addition to the principal training and equipment fund, a supplemental fund offering larger dollar grant awards (capped at \$30,000) for economic hardship and Board priorities, was established.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Prohibiting the purchase of all disposable items with Priority 1 grant award funds was considered. Because some disposable items are used in conjunction with equipment determined to be Board priorities, a list of disposable items that can be purchased with Priority 1 grant award funds was developed and approved by the EMFTS Board at its October 2015 meeting. The list is included in the training and equipment grant application.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

No. O.R.C. 4765.07 dictates the grant program as the process for distributing the trauma and emergency medical services fund.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The EMS staff and the DPS legal staff reviewed ORC 4765.07 and proposed revisions to the rules in Chapter 4765-5 to eliminate duplications.

13. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Division of EMS posts information about the rule review process, including those rules scheduled for review, drafts open for public comment, proposed rules and public hearing notices, and recently adopted rules, at its *Small Business Regulatory Impact* Web site (http://www.publicsafety.ohio.gov/ems_rules.stm). The laws and rules associated with the EMS grant program are provided as links at the *EMS Grant Program* Web site (<http://www.ems.ohio.gov/grants-laws.aspx>), and the amended rules, when they become effective, will be available through that link. The Division of EMS will use the EMS ListServ and the email addresses of current grantees to distribute the final rules to stakeholders when they become effective. The Webinars provided for potential grant applicants prior to the application deadlines will include information about the rules and changes to the rules. Division of EMS staff will receive email notification of the rule changes and attend section briefings regarding the implementation policy and procedures. During its meetings, the EMFTS Board receives regular updates about EMS rules.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

- a. The scope of the impacted business community includes approximately 1,300 EMS organizations located throughout Ohio that are eligible to apply for EMS Priority 1 grants and research entities that are eligible to apply for research grants. R.C. 4765.07 provides a broad description of the entities eligible to apply for EMS research grants. Historically, the research grant applicants are hospital and/or university affiliated organizations in Ohio. Examples include: MetroHealth Medical System; Children’s Hospital Research Foundation; Cincinnati Children’s Hospital and Medical Center; The Ohio State University; OhioHealth Research Institute; St. Elizabeth’s Health Center; Miami Valley Hospital; Child Injury Prevention Alliance; American Academy of Pediatrics, Ohio Chapter; Kent State University; Wright State University; University of Cincinnati; and Tri-Health/Bethesda North Hospital.

- b. No fees are associated with rules in O.A.C. Chapter 4765-5. The Priority 1 awards are made on a reimbursement-basis; however, grant recipients who request hardship consideration may receive grant funds in advance of their expenditures.

Applicants will spend time completing the application forms, and grantees will spend time submitting reimbursement requests and project, financial, and expenditure reports as described in the application forms and grant agreements. The applications and required forms are available at the EMS Grant Web site and can be submitted by fax or email, or, in the case of the Priority 1 and supplement applications, are submitted on-line. The EMS staff and DPS IT department have improved the on-line application process so that it is easier and requires less time to apply. The estimated time to complete a Priority 1 application is 15-to-30 minutes, and the estimated time to complete an application for supplemental funds is 30 minutes or less.

Grantees who fail to meet the requirements in the grant agreements they sign may be subject to sanctions, including termination of the agreement, forfeiture of unexpended grant funds, and being ineligible for future awards. The EMS grant programs are subject to generally accepted accounting principles. Grantees suspected of misappropriating or improperly administering grant funds or those who fail to provide required documentation will be investigated by the Division of EMS and may be referred to the attorney general's office.

- c. The Division of EMS estimates that these rules will not result in any undue cost of compliance or adverse impact. The decision to apply for or accept funds from the EMS grant programs is voluntary, and the terms of each grant award are stated and accepted in an agreement signed by the grantee. An applicant who does not receive a Priority 1 grant award may have invested an estimated 60 minutes or less in completing the application, with no financial return on investment. Time spent successfully applying for the grant funds and completing the required documents to draw down the funds will be a positive return on investment for applicants.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Pursuant to division (A)(20) of section 4765.11 of the R.C., the State Board of EMFTS is required to establish "Procedures for administering the emergency medical services grant program established under section 4765.07 of the Revised Code." Regulations are implemented to provide accountability for the trauma and emergency medical services fund and to use the funds to improve and enhance EMS and trauma patient care in the state of Ohio.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Applicants for training and equipment grant Priority 1 awards may request hardship consideration to receive grant funds in advance of their expenditures rather than by the established reimbursement basis. Research grant awardees may be granted an extension of up to one year to complete their projects.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Division of EMS and the State Board of EMFTS do regulate some small businesses, such as ambulance, ambulette and air medical services, and training programs. However, the rules contained in O.A.C Chapter 4765-5 apply not to small businesses but to: (1) EMS organizations established or operated by a township, municipality, village, city, county, joint fire district, joint ambulance district, or joint township fire district; and (2) research entities. While a grantee may be subject to sanctions for a violation of these rules, a small business would not; therefore the waiver provision contained in R.C. section 119.14 would not be applicable to a violation of these rules.

18. What resources are available to assist small businesses with compliance of the regulation?

The Division of EMS's Web site contains a "*Small Business Regulatory Impact*" section with links to R.C. 4765., O.A.C. 4765, and JCARR. Rules scheduled for review, open for public comment, proposed, and recently adopted are posted at the Web site, along with public comment and public hearing information and email links for the ODPS Rules Administrator and Division of EMS rules personnel.

Each unit of the EMS Web page, including the *EMS Grant Program* Web pages, includes links to the R.C. and O.A.C. laws and rules associated with that topic, along with an overview section and a *Frequently Asked Questions* section. The *Agency Directory* at the EMS Web site includes the email addresses; telephone numbers, including a toll free number; and the names of EMS staff, including the EMS grants staff. The EMS grants staff conducts several live Webinars each year prior to the period when grant applications are accepted and posts the Webinar and Webinar questions and answers at the grant Web page. The EMS grants staff and EMS director conduct site visits with grant applicants and recipients throughout the year and are available by phone and by email to grantees and to potential applicants.