

Title 19. Public Finance

Chapter VIII. Department of Finance and Administration

Subchapter A. Generally

Part 50. Implementation of Accountability Provisions for Disbursements from the Development and Enhancement Fund by the Department of Finance and Administration Disbursing Officer

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Pursuant to the authority vested in the Director of the Department of Finance and Administration, acting as Chief Fiscal Officer of the State, by Ark. Code Ann. §§ 19-1-201, 19-1-207, 19-4-301, and 19-4-801, the Director of the Department of Finance and Administration, with the approval of the Governor, does hereby promulgate the following Rule for the enforcement and administration of disbursements from the General Improvement Fund by the DFA Disbursing Officer."

"IN WITNESS WHEREOF, we have hereunto set out hands this day of September 2005."

Subpart 1. Generally

19 CAR § 50-101. Purpose.

The purpose of this part is to:

- (1) Simplify and clarify the administration of the disbursements from the Development and Enhancement Fund;
- (2) Provide for increased public confidence in the disbursement of funds used for projects financed from the Development and Enhancement Fund;
- (3) Ensure the fair and equitable treatment of all fund recipients; and

(4) Provide safeguards for the maintenance and administration of the disbursement process.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-102. Definitions.

For purposes of this part, unless otherwise required by the context, the following definitions apply:

(1) "Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose;

(2) "Biennium" shall mean a two-year period beginning the first of July immediately following the conclusion of the regularly scheduled Arkansas legislative session;

(3) "Compliance audit" means an audit conducted to determine whether the use of funds was in compliance with the appropriated purposes of the General Assembly;

(4) "Development and Enhancement Fund" consists of monies set aside by the General Assembly to be used for financing improvement projects;

(5) "Disbursing officer for the Department of Finance and Administration" means the Secretary of the Department of Finance and Administration;

(6) "Executive discretionary division projects" consists of the projects approved for funding from the Development and Enhancement Fund for which the Governor shall authorize release of monies to fund such projects, subject to availability of funds in the State Treasury;

(7) "Fund recipient" means any entity, organization, institution, city or municipality, department, or agency approved by the General Assembly to receive appropriated funds through the Development and Enhancement Fund;

(8) "Legislative division projects" consists of the projects approved for funding from the Development and Enhancement Fund other than the projects listed as executive discretionary division projects;

(9) "Maintenance" means to support, preserve, sustain, and keep in a given existing condition of efficiency or state of repair;

(10) "Matching funds" means the monies equal to or exceeding appropriated funds through sources outside of the appropriations creating the original funds, such as through federal matching funds and private donations; and

(11) "Method of finance" means a written summary statement setting forth:

(A) A general description of a proposed project;

(B) Its estimated overall costs;

(C) Its estimated commencement and completion dates; and

(D) The method proposed to finance its costs.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-103. Available funds.

(a) The Treasurer of State shall first make allocations to the executive discretionary division projects based on the percentage outlined in each biennium's General Improvement Fund Distribution Act and the remainders of the total available funds to the legislative division projects until all legislative division projects have been fully funded.

(b)(1) Funds will be distributed to the legislative division projects in the proportion that each project's allocation bears to the total of the allocations of all projects enumerated in the legislative division projects.

(2)(A) Although funding levels have been established, there are no guarantees that funds will:

(i) Become available; and

(ii) Be released in amounts sufficient to reach the one hundred percent (100%) level of funding.

(B) Therefore, fund recipients should judiciously plan accordingly.

(c) Funds made available to the executive discretionary division projects may be used for any project or portion thereof enumerated within the executive discretionary division projects, but not to exceed the amount set out for the project.

(d) The Chief Fiscal Officer of the State shall notify the Legislative Council of the Governor's released funds for projects at the time that the Department of Finance and Administration is notified.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-104. Letter of instruction.

(a)(1) Each fund recipient shall provide their address of record, point of contact information, and telephone number to the disbursing officer for the Department of Finance and Administration by August 1 of the first year in each biennium.

(2) The address of record shall be the business address of the fund recipient.

(b)(1) By August 1 of the first year in each biennium, the disbursing officer shall issue a letter of instruction to all designated fund recipients.

(2) The letter shall contain:

(A) Information regarding the disbursement process;

(B) Required supporting documentation; and

(C) Blank forms to be completed by each fund recipient and returned to the disbursing officer by September 1 of the first year in each biennium.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-105. Funding process.

(a)(1) The disbursing officer for the Department of Finance and Administration shall mail warrants to fund recipients to the addresses of record within twenty (20) working days after the Division of Budgets and Accounting of the Department of Finance and Administration receives distribution from the Treasurer of State.

(2) The Treasurer of State makes distributions to the Department of Finance and Administration as funds become available.

(3) Accordingly, a fund recipient may receive a disbursement in installments rather than a single warrant.

(4) Distribution of funds will be delayed if the fund recipient fails to provide the required Certification for Use of Funds form (DFA-SP-1) or provides an incomplete Certification for Use of Funds form (DFA-SP-1) as required in 19 CAR § 50-107(a).

(b)(1) The disbursing officer shall request a list of legislators who wish to deliver warrants related to the Development and Enhancement Fund appropriations that they sponsored or cosponsored from the House of Representatives and Senate staff no later than August 1 of the first year of each biennium.

(2) The House of Representatives and Senate staff shall provide such a list to the disbursing officer no later than September 1 of the first year of each biennium.

(3) In the event that a legislator sponsoring or cosponsoring a Development and Enhancement Fund appropriation wishes to deliver the first warrant of the biennium to the fund recipient, the legislator must sign for the warrant at the office of the disbursing officer.

(4) All future warrants issued in the biennium will be mailed directly to the recipients.

(c)(1) In the event that an incomplete Certification for Use of Funds form (DFA-SP-1) is received, the disbursing officer shall notify the fund recipient by letter to the recipient's address of record within ten (10) working days of receipt of the form.

(2) The initial distribution to the fund recipient may be delayed up to sixty (60) days after the receipt of a complete Certification for Use of Funds form (DFA-SP-1).

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-106. Disbursement controls.

(a) Monies may not be disbursed under this part in excess of the State Treasury funds actually available and provided by law.

(b) A fund recipient shall have the authority to accept and use grants and donations, including federal funds, and its unobligated cash income or funds to compensate for any deficiency in appropriated state funds for any approved project.

(c) The disbursing officer of the Department of Finance and Administration shall strictly comply with all applicable provisions of the Arkansas Procurement Law, Arkansas Code § 19-11-201 et seq., the General Accounting and Budgetary Procedures Law, Arkansas Code § 19-4-101 et seq., the Revenue Stabilization Law, Arkansas Code § 19-5-101 et seq., and any other applicable fiscal control laws of this state, including rules promulgated by the Department of Finance and Administration, as authorized by law, in disbursing any funds from the Development and Enhancement Fund unless specifically provided otherwise by law.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-107. Use of funds notification process.

(a) The initial application and certification by the designated fund recipient establishing the intended purpose and specific use of the funds shall be delivered to the disbursing officer of the Department of Finance and Administration, via the Certification for Use of Funds form (DFA-SP-1) by September 1 of the first year in each biennium.

(b)(1) The fund recipient shall provide updated notification to the disbursing officer any time the specific use of the funds as disclosed on the initial Certification for Use of Funds form (DFA-SP-1) is changed.

(2) The new notification shall also be made on the Certification for Use of Funds form (DFA-SP-1).

(c)(1) An Expenditure Report form (DFA-SP-2) shall be completed by the fund recipient as of December 31 of the first year in each biennium and sent to the disbursing officer within ten (10) working days thereafter.

(2) An Expenditure Report form (DFA-SP-2) shall then be prepared at the end of every calendar year until the:

(A) Project is completed; or

(B) Final use of the appropriated funds.

(d) Notification by fund recipient as to the actual purpose and use of the funds shall be delivered to the disbursing officer via the Expenditure Report form (DFA-SP-2) within thirty (30) days after completion of the project or final use of the funds.

(e) The failure of an applicant to comply with the certification process as set forth in this section may cause delays in receiving funding.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-108. Matching funds.

Any matching funds as may be provided by law shall be certified to the Chief Fiscal Officer of the State prior to:

- (1) Any disbursement from the Development and Enhancement Fund; and
- (2) The commencement of the project.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-109. Criteria and preconditions.

Expenditure of the funds authorized by appropriation from the Development and Enhancement Fund shall be made only upon:

- (1) Documentation to the Chief Fiscal Officer of the State that all criteria or preconditions established in the appropriation act have been met; and
- (2) A method of finance has been filed with the Division of Budgets and Accounting of the Department of Finance and Administration, if required.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-110. Adequate records maintenance.

For audit purposes, fund recipients shall store and maintain on-site, for three (3) years after final disbursement of funds, records of the following:

- (1) All receipts and invoices;
- (2) All applicable statutes and rules;
- (3) All documents and forms required by this part;
- (4) All correspondence pertaining to funds; and
- (5) All procurement contracts.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-111. Compliance audit.

Any recipient of appropriated funds from the Development and Enhancement Fund:

- (1) May be required to file a compliance audit; and
- (2) Is also subject to an audit by Arkansas Legislative Audit in order to determine that the use of the funds was in compliance with the intent and appropriated purposes of the General Assembly.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-112. Noncompliance with this part.

If it is found through a review of fund recipient reports, a compliance audit, or through any other means that a recipient of funds from the Development and Enhancement Fund has expended funds for any purpose other than that approved by law or this part, the Chief Fiscal Officer of the State may take any or all of the following actions:

- (1) Withhold current funds to said recipient pending correction of the unapproved use of funds;
 - (2) Require reimbursement of misused funds as outlined in 19 CAR § 50-113;
- or
- (3) Take any other action authorized by law to correct the misuse of funds or to demand reimbursement of misused funds.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-113. Reimbursement of funds.

(a) If, after funds are expended to complete an approved project that has been specifically appropriated, funds remain in excess of the project cost, the recipient shall provide reimbursement of any unexpended funds within thirty (30) days after the project cost has been fully funded.

(b) If, as a result of an audit as outlined in 19 CAR § 50-111, it is found that a recipient of funds from the Development and Enhancement Fund has expended funds for any purpose other than that approved, the recipient shall provide reimbursement of expended funds within thirty (30) days after receipt of the audit report.

(c)(1) Reimbursement of expended or unexpended funds shall be:

(A) Made through a check payable to the disbursing officer of the Department of Finance and Administration; and

(B) Mailed to:

DFA Disbursing Officer
P.O. Box 2485
Little Rock, Arkansas 72203-2485

(2) The disbursing officer shall deposit the reimbursement as a refund of the expenditure into the fund from which it was originally disbursed.

(3) If a reimbursement check is returned due to insufficient funds or is dishonored for any other reason, it shall be considered that said payment was not made.

(d) If a recipient of funds hereunder does not provide reimbursement of misused funds as directed under this section, the Chief Fiscal Officer of the State may make a recommendation to the Legislative Council between sessions and to the Joint Budget Committee during sessions that no further funds be appropriated for use by the fund recipient from the Development and Enhancement Fund.

Authority. Arkansas Code § 19-1-208.

19 CAR § 50-114. Rule supplemental to current law.

No provision of this part shall be considered to repeal any:

- (1) Requirement of existing law; or
- (2) Rules promulgated pursuant to existing law.

Authority. Arkansas Code § 19-1-208.