

Title 5. Criminal Offenses

Chapter IV. Arkansas Alcohol and Drug Abuse Coordinating Council, Division of Aging, Adult, and Behavioral Health Services, Department of Human Services

Subchapter A. Generally

Part 40. Rules of Procedure for the Special State Assets Forfeiture Fund

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

"Statutory Authority: Arkansas Code Annotated § 5-64-505

Necessity and Functions: Establishment of rules for a procedure for proper investment, use, and disposition of state moneys deposited into the Special State Assets Forfeiture Fund."

"Introduction

Arkansas Code Annotated Section 20-64-1001 creates the position of Arkansas Drug Director, appointed by the Governor, and placed within the Department of Human Services, Division of Behavioral Health Services, and authorizes the Drug Director to establish and enforce rules and regulations regarding the management of the Special State Assets Forfeiture Fund , created in ACA 5 -64-505.

Arkansas Code Annotated Section 5-64-505 {i} (3) (DJ (i) provides:

The Arkansas Drug Director shall establish through rules and regulations a procedure for proper investment, use, and disposition of moneys deposited in the Special State Assets Forfeiture Fund in accordance with the intent and purposes of this chapter.

Arkansas Code Annotated Section 5-64-505 (i) (3) (DJ (ii) provides:

State moneys in the Special State Assets Forfeiture Fund shall be distributed by the Arkansas Alcohol and Drug Abuse Coordinating Council and shall be distributed for drug interdiction, eradication, education, rehabilitation, the State Crime Laboratory, and Drug Courts.

These rules establish the procedures to be used in implementing the above statute."

Subpart 1. Generally

5 CAR § 40-101. Source of funds.

The Special State Assets Forfeiture Fund will consist of revenues obtained under Arkansas Code § 5-64-505(i)(1)(B)(iv) and any other revenues as may be provided by law.

Authority. Arkansas Code §§ 20-64-1001, 5-64-505.

5 CAR § 40-102. Policies affecting funds.

(a) Approval.

(1) The Arkansas Alcohol and Drug Abuse Coordinating Council will determine all expenditures from the Special State Assets Forfeiture Fund.

(2) In addition to proposals based on RFPs, the council may receive recommendations from any of its committees or members for use of moneys in the fund and may also receive petitions for funding from any eligible entity.

(3) All applications, recommendations, or requests may be assigned to any committee of the council for review by its chair.

(b) Funding purpose areas include:

(1) Programs which request expansion of their services and/or which have demonstrated full obligation of existing funds for the following purposes:

(A) Drug interdiction;

(B) Drug eradication;

- (C) Drug education;
- (D) Drug rehabilitation;
- (E) State Crime Laboratory; and
- (F) Drug courts; and

(2) Start-up programs which provide a sustainability plan adjudged by the committee as likely to be effective for purpose areas as indicated in subdivision (b)(1) of this section.

(c) **Unexpected and/or unallocated revenues.** Unexpected and/or unallocated revenues that become available during the fiscal year may be allocated, through a supplemental and competitive grant process, to ongoing or start-up programs and/or activities.

Authority. Arkansas Code §§ 20-64-1001, 5-64-505.

Codification Notes. "RFP" means request for proposals.

5 CAR § 40-103. Grant specifications and application process.

(a) Eligible applicants include:

- (1) State government agencies;
- (2) Local government agencies;
- (3) Nonprofit entities; and
- (4) For-profit entities.

(b) **Requests for proposals.**

(1) The Office of Intergovernmental Services will provide the Arkansas Drug Director and the Arkansas Alcohol and Drug Abuse Coordinating Council with the account balance of the Special State Assets Forfeiture Fund on a monthly basis in order for the determination of issuance of requests for proposals.

(2) The office of the director, upon recommendation of the council, will determine the frequency, duration, and timeframe concerning the issuance of requests for proposals, and will make these available to all eligible entities.

(3) Sections of requests for proposals may include, but are not limited to, the following items:

- (A) Applicant information;
- (B) Statement of need;
- (C) Budget narrative;
- (D) Budget proposal;
- (E) Project description/narrative;
- (F) Project plan;
- (G) Project goals; and
- (H) Project objectives.

(4) Applications must be made and signed by an authorized agency representative.

(5)(A) Additional requirements for proposals may be developed by the council and/or the office of the director at any time.

(B) Specifications included in requests for proposals will include precise instructions concerning all application requirements, including any requirements developed subsequent to the enactment of this part.

(c) Funding recommendations from council members.

(1) Any of the council's committees or members may make a recommendation for use of fund moneys within the program areas outlined in 5 CAR § 40-102(b)(1).

(2) The committee or council member making the recommendation will provide documentation of need which includes:

- (A) Problem statement;
- (B) Program plan;
- (C) Anticipated outcome;
- (D) Detailed budget; and
- (E) Letter or letters of support.

(d) Petitions for funding.

(1) Any eligible applicant may come before the council or an assigned committee to present a request for funding within the program areas outlined in 5 CAR

§ 40-102(b)(1).

(2) Applications must be made and signed by an authorized agency representative.

(3) Applicants will provide documentation of need which includes:

- (A) Problem statement;
- (B) Program plan;
- (C) Anticipated outcome;
- (D) Detailed budget; and
- (E) Letter or letters of support.

Authority. Arkansas Code §§ 20-64-1001, 5-64-505.

5 CAR § 40-104. Evaluation and award of funds.

(a) Processing.

(1)(A) Processing applications in response to an RFP:

(i) Applications must be received by the office of the Arkansas Drug Director by the deadline designated in the specifications, and must include sufficient copies of the application as designated in the specifications in order to receive consideration for funding; and

(ii) Applications will be reviewed by the Arkansas Alcohol and Drug Abuse Coordinating Council or by the appropriate council committee in its next regularly scheduled meeting.

(B) The council may elect to interview applicants prior to, or in the course of, its meeting.

(2) Funding recommendations from council members:

(A) Including all supporting documentation, will be submitted to the office of the director at least one (1) week prior to the council's regularly scheduled meeting; and

(B) Will be reviewed by the council or by the appropriate council committee in its next regularly scheduled meeting.

(3) Petitions for funding:

(A) Petitions for funding, including all supporting documentation, will be submitted to the office of the director;

(B) The director will place the petition on the agenda to be reviewed by the council or by the appropriate council committee;

(C) Petitioners will receive notice of the date, time, and place of the council or committee meeting in which the petition will be considered; and

(D) The council may elect to interview petitioners prior to, or in the course of, its meeting.

(b) **Evaluation for funding.**

(1) Evaluation of applications in response to an RFP:

(A) The director and the council will use a grant award instrument to determine recipients;

(B) Applicants will be provided specific information concerning the methodology of scoring of applications in all requests for proposals;

(C) The director and the council will make evaluations of program proposals in accordance with the criteria set forth in the specifications of the request for proposals;

(D) Each application will have a maximum total possible point score of one hundred (100), with specific point value maximums set for each criterion by the office of the director and the council;

(E) Applicant proposals will be ranked by score, and those receiving the highest scores will be considered for funding, contingent on the amount available for award; and

(F) The council reserves the right to reduce, in part or whole, any budget proposal it deems to be excessive and/or inconsistent with program proposal criteria.

(2) Evaluation of funding recommendations from council members:

(A) The director and the council, or its appropriate committee, will make evaluations of program recommendations based on the documentation provided and may be evidence-based or impact-based; and

(B) The council will determine through majority vote whether the recommendation will receive funding and will also determine the level of funding.

(3) Evaluation of petitions for funding:

(A) The director and the council, or its appropriate committee, will make evaluations of program funding requests based on the documentation provided and may be evidence-based or impact-based; and

(B) The council will determine through majority vote whether the recommendation will receive funding and will also determine the level of funding.

(c) **Notice of award.**

(1) Upon approval by the council, minutes of the council meeting and other appropriate documentation will be prepared and sent to the Office of Intergovernmental Services by the office of the director for processing.

(2) The notice of grant award will be prepared and sent to recipients by the office of the director within ten (10) business days of Department of Finance and Administration notification that the funds are being processed.

(d) **Acceptance or denial of grant award.**

(1) Applicants which are offered awards may elect to accept or decline them.

(2) For those applicants that accept awards, a grant award agreement will be signed and returned by the applicant by an authorized agency representative within ten (10) business days.

(e) **Equal opportunity.** All programs must furnish assurance of compliance with applicable civil rights laws and regulations.

(f) **Freedom of Information Act of 1967.** Proposals submitted in response to any RFP are subject to the provisions of the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

Authority. Arkansas Code §§ 20-64-1001, 5-64-505.

Codification Notes. "RFP" means request for proposals.

5 CAR § 40-105. Policies affecting funding.

(a) The Arkansas Alcohol and Drug Abuse Coordinating Council will make funds available through grants and interagency agreements.

(b) The council will not award an application that is not consistent with its funding plan.

(c)(1) Allocation of funds will be determined by the council.

(2) An award of financial assistance to an eligible recipient is to be expended in accordance with the approved application, including amendments and in accordance with the approved budget.

(3) The council reserves the right to:

(A) Reduce the funding;

(B) Terminate the grant; or

(C) Impose other sanctions on a grantee for reasons which include, but are not limited to:

(i)(a) Poor performance of the grantee in fulfilling its obligations.

(b) Evidence of poor performance includes but is not limited to:

(1) Failure to comply with standards as contained in the funding agreements;

(2) Failure to produce documentation or information requested by the Arkansas Drug Director or other evaluators designated by the director; and

(3) Failure to comply with the goals and strategies set forth in the application;

(ii) Failure to timely submit required reports in the proper format and with proper documentation;

(iii) Failure to adhere to the requirements in the agreement, standard condition, or special conditions;

(iv) Filing a false certification in the application, report or reports, or other document or documents; and

(v) Failure to comply with provisions of Arkansas Code § 5-64-505(f)

as certified by Arkansas Legislative Audit to the council.

Authority. Arkansas Code §§ 20-64-1001, 5-64-505.

5 CAR § 40-106. Modifications.

(a) In extraordinary circumstances, the Arkansas Drug Director and/or the Arkansas Alcohol and Drug Abuse Coordinating Council may elect to allow modification of the budget or other areas of the grant award agreement.

(b) All requests for modification must be provided in writing to the director and approved by the director or the council prior to obligation of funds.

(c) Modification requests in excess of five thousand dollars (\$5,000) will be presented to the appropriate council committee for review and recommendation to the council.

(d) Upon approval by the director or the council, documentation will be submitted to the Office of Intergovernmental Services for necessary changes to the underlying award.

Authority. Arkansas Code §§ 20-64-1001, 5-64-505.

5 CAR § 40-107. Payment method.

All payments will be made through the Office of Intergovernmental Services as directed by the Arkansas Alcohol and Drug Abuse Coordinating Council.

Authority. Arkansas Code §§ 20-64-1001, 5-64-505.

5 CAR § 40-108. Requests for reconsideration.

(a) Any applicant who has been denied funding by the Arkansas Alcohol and Drug Abuse Coordinating Council must notify the Arkansas Drug Director in writing of the intent to seek reconsideration no later than ten (10) business days of notification.

(b) The party requesting reconsideration will submit written materials supporting

the request.

(c) Parties desiring reconsideration may request the opportunity to present oral arguments before the council.

(d) After the request for reconsideration has been presented, the council may either refer the request back to any of the council's committees for reconsideration or take any other action it deems necessary.

(e) If the request for reconsideration is referred back to committee, the request and accompanying documentation will be reviewed by the committee and resubmitted to the council for final determination.

Authority. Arkansas Code §§ 20-64-1001, 5-64-505.