

STATE OF ARKANSAS
DEPARTMENT OF FINANCE AND ADMINISTRATION

REGULATION RULE

~~IMPLEMENTING ACT 46 OF 2003 (1ST Ex. Sess.) EIGHTY FOURTH SESSION
PROJECTS ACCOUNT WITHIN THE GENERAL IMPROVEMENT FUND
IMPLEMENTATION OF ACCOUNTABILITY PROVISIONS FOR
DISBURSEMENTS FROM THE GENERAL IMPROVEMENT FUND BY THE
DEPARTMENT OF FINANCE AND ADMINISTRATION DISBURSING OFFICER~~

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 Regulation Rule for the enforcement and administration of ~~ACT 46 of 2003 (1st Ex. Sess.), Eighty Fourth Session Projects Account within the General Improvement Fund (84th Session Projects Account), to take effect on September 15, 2003~~ disbursements from the General Improvement Fund by the DFA Disbursing Officer.

1. Purpose - The purpose of this Regulation Rule is to:
 - a. Simplify and clarify the administration of the disbursements ~~of the 84th Session Projects Account~~ from the General Improvement Fund;
 - b. Provide for increased public confidence in the disbursement of funds used for ~~84th Session Projects Account~~ projects financed from the General Improvement Fund;
 - c. Ensure the fair and equitable treatment of all fund recipients; and
 - d. Provide safeguards for the maintenance and administration of the disbursement process.

2. Definitions – For purposes of this Regulation Rule, unless otherwise required by the context, the following definitions apply:
 - A. ~~APPROPRIATION~~ “Appropriation” shall mean a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.

 - B. ~~BIENNIUM~~ “Biennium” shall mean a two-year period beginning the first of July immediately following the conclusion of the regularly scheduled Arkansas ~~L~~ legislative session.

C. ~~COMPLIANCE AUDIT~~ “Compliance audit” shall mean an audit conducted to determine whether the use of funds was in compliance with the appropriated purposes of the General Assembly.

D. ~~EXECUTIVE DISCRETIONARY DIVISION PROJECTS~~ “Executive discretionary division projects” shall consist of the projects approved for funding ~~in the 84th Session Projects Account~~ from the General Improvement Fund for which the Governor shall authorize release of monies to fund such projects, subject to availability of funds in the State Treasury.

E. ~~FUND RECIPIENT~~ “Fund recipient” shall mean any entity, organization, institution, city or municipality, department, ~~and~~ or agency approved by the General Assembly to receive appropriated funds through the ~~84th Session Projects Account~~ General Improvement Fund.

F. ~~GENERAL IMPROVEMENT FUND~~ “General Improvement Fund” shall consist of monies set aside by the General Assembly to be used for financing improvement projects.

G. ~~LEGISLATIVE DIVISION PROJECTS~~ “Legislative division projects” shall consist of the projects approved for funding ~~in the 84th Session Projects Account~~ from the General Improvement Fund other than the projects listed as ~~E~~executive ~~D~~discretionary ~~D~~ivision ~~P~~rojects.

H. ~~MAINTENANCE~~ “Maintenance” shall mean to support, preserve, sustain, and keep in a given existing condition of efficiency or state of repair.

I. ~~MATCHING FUNDS~~ “Matching funds” shall mean 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.

J. ~~METHOD OF FINANCE~~ “Method of finance” shall mean a written summary statement setting forth a general description of a proposed project, its estimated overall costs, its estimated commencement and completion dates, and the method proposed to finance its cost.

K. “DFA Disbursing Officer” shall mean the Director of the Department of Finance and Administration.

3. Available Funds

A. The Treasurer of State shall first make allocations ~~on the basis of forty two and two tenths percent (42.2%) of the total available funds~~ to the ~~E~~executive ~~D~~discretionary ~~D~~ivision ~~P~~rojects based on the percentage outlined in each biennium’s General Improvement Fund Distribution Act and the remainder of the total available funds to the ~~L~~egislative ~~D~~ivision ~~P~~rojects until all ~~L~~egislative ~~D~~ivision ~~P~~rojects have been fully funded.

B. ~~The Legislative Division Projects shall be used to provide funds to each project enumerated in the Funds will be disbursed to the Legislative Division Projects~~ in proportion that each project's allocation bears to the total of the allocations of all projects enumerated in the ~~Legislative Division Projects~~. **Although funding levels have been established, there are no guarantees that funds will become available and be released in amounts sufficient to reach the 100% level of funding. 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.

4. Letter of Instruction

A. Each ~~Fund Recipient~~ shall provide their address of record, point of contact information, and telephone number to the ~~Disbursing Officer of the Department of Finance and Administration (DFA Disbursing Officer)~~ DFA Disbursing Officer by ~~September 15, 2003~~ August 1 of the first year in each biennium. The address of record shall be the business address of the ~~Fund Recipient~~.

B. By ~~August 1, 2003~~ August 1 of the first year in each biennium, the DFA Disbursing Officer shall issue a letter of instruction to all designated ~~Fund Recipient~~. The letter shall contain information regarding the disbursement process, required supporting documentation, and blank forms to be completed by each fund recipient and returned to the DFA Disbursing Officer by ~~October 1, 2003~~ September 1 of the first year in each biennium.

5. Funding Process

A. The DFA Disbursing Officer shall mail ~~monies/warrants~~ to ~~Fund Recipients~~ to the addresses of record within 20 working days after the Office of Accounting of the Department of Finance and Administration receives distribution from the Treasurer of the State. The Treasurer of State makes distributions to the Department of Finance and Administration as funds become available. Accordingly, a fund recipient may receive a disbursement in installments rather than a single warrant. 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 section 7(A) of these rules this Rule.

B. The DFA Disbursing Officer shall request a list of Legislators who wish to deliver warrants related to the General Improvement Fund appropriations that they sponsored or co-sponsored from the House and Senate staff no later than August 1 of the first year of each

biennium. The House and Senate staff shall provide such a list to the DFA Disbursing Officer no later than September 1 of the first year of each biennium. In the event that a Legislator sponsoring or co-sponsoring a General Improvement 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 DFA Disbursing Officer. All future warrants issued in the biennium will be mailed directly to the fund recipients.

~~BC.~~ In the event that an incomplete Certification for Use of Funds form (DFA-SP-1) is received, the DFA Disbursing Officer shall notify the ~~F~~fund ~~R~~recipient by letter to ~~their~~ the recipient's address of record within 10 working days of receipt of the form. The initial distribution to the ~~F~~fund ~~R~~recipient may be delayed up to 60 days after the receipt of a complete Certification for Use of Funds form (DFA-SP-1).

6. Disbursement Controls

A. Monies may not be disbursed under this ~~Regulation~~ Rule in excess of the State Treasury funds actually available and provided by law.

~~B. Recipients of funds under this Regulation~~ A fund recipient shall have the authority to accept and use grants and donations, including ~~F~~federal funds, and its unobligated cash income or funds, to compensate for any deficiency in appropriated state funds for any approved project.

C. The DFA Disbursing Officer shall strictly comply with all ~~A~~applicable provisions of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, and any other applicable fiscal control laws of this State, ~~and regulations~~ including rules promulgated by the Department of Finance and Administration, as authorized by law, ~~shall be strictly complied with in disbursement~~ disbursing of any funds ~~provided by the 84th Session Projects Account from the General Improvement Fund~~ unless specifically provided otherwise by law.

7. Use of Funds Notification Process

A. The initial application and certification by designated ~~F~~fund ~~R~~recipient establishing the intended purpose and specific use of the funds shall be delivered to the DFA Disbursing Officer, via the Certification for Use of Funds form (DFA-SP-1) by ~~October 1, 2003~~ September 1 of the first year in each biennium.

B. The ~~F~~fund ~~R~~recipient shall provide updated notification to the DFA Disbursing Officer ~~at any time that~~ the specific use of the funds as disclosed on the initial Certification for Use of Funds form (DFA-SP-1) is changed. The new notification shall also be made on the Certification for Use of Funds form (DFA-SP-1).

C. An Expenditure Report form (DFA-SP-2) shall be completed by the Fund Recipient as of December 31, 2004 of the first year in each biennium and sent to the DFA Disbursing Officer within 10 working days thereafter. An Expenditure Report form (DFA-SP-2) shall then be prepared at the end of every calendar year until the project is completed or the 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 DFA Disbursing Officer, via the Expenditure Report form (DFA-SP-2), within 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.

8. Matching Funds – Any matching funds as may be provided by law shall be certified to the Chief Fiscal Officer of the State prior to any disbursement of ~~84th Session Projects Account~~ funds from the General Improvement Fund and the commencement of the project.

9. Criteria and Preconditions – Expenditure of the funds authorized by appropriation of ~~84th Session Projects Account~~ from the General Improvement Fund shall be made only upon:

- (a) ~~d~~ADocumentation to the Chief Fiscal Officer of the State that all criteria or preconditions established in the appropriation act have been met; and
- (b) ~~a~~A method of finance has been filed with the Office of Accounting of the Department of Finance and Administration, if required.

10. Adequate Records Maintenance – For audit purposes, Fund Recipients shall store and maintain on-site, for three years after final disbursement of funds, records of the following:

- (a) ~~a~~All receipts and invoices;
- (b) ~~a~~All applicable statutes and rules;
- (c) ~~a~~All documents and forms required by this Rule;
- (d) ~~a~~All correspondence pertaining to funds; and
- (e) ~~a~~All procurement contracts.

11. Compliance Audit – any recipient of appropriated funds from the ~~84th Session Projects Account~~ General Improvement Fund:

- (a) ~~m~~May be required to file a compliance audit; and

- (b) ~~is~~ also subject to an audit by the Division of 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.

12. Non-compliance with this Regulation Rule – If it is found through a review of ~~Fund Recipient~~ fund-recipient reports, a compliance audit, or through any other means that a recipient of funds ~~under Act 46 of 2003 (1st Ex. Sess.) or this Regulation~~ from the General Improvement Fund has expended funds for any purpose other than that approved by law or this Rule, the Chief Fiscal Officer of the State may take any or all of the following actions:

- (a) ~~w~~Withhold current funds to said recipient pending correction of the unapproved use of funds;
- (b) ~~r~~Require reimbursement of misused funds as outlined in ~~S~~ection 13 ~~below of~~ this Rule; or
- (c) ~~t~~Take any other action authorized by law to correct the misuse of funds or to demand reimbursement of misused funds.

13. Reimbursement of Funds

A. If, after funds are expended to complete an approved project that has been specifically appropriated, ~~and~~ funds remain in excess of the project cost, ~~that the~~ recipient shall provide reimbursement of any unexpended funds within 30 days after ~~said determination~~ the project cost has been fully funded.

B. If, as a result of an audit as outlined in ~~S~~ection 11 ~~above of this Rule~~, it is found that a recipient of funds ~~under Act 46 of 2003 (1st Ex. Sess.) or this Regulation~~ from the General Improvement Fund has expended funds for any purpose other than that approved, ~~that the~~ recipient shall provide reimbursement of expended funds within 30 days after ~~said determination~~ receipt of the audit report.

C. Reimbursement of expended or unexpended funds shall be made through a check payable to: DFA Disbursing Officer and mailed to P.O. Box 2485, Little Rock, Arkansas 72203-2485. The DFA Disbursing Officer shall deposit the reimbursement as a refund of the expenditure into the fund from which it was originally disbursed. 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 ~~under Act 46 of 2003 (1st Ex. Sess.) or any other subsequent appropriation act~~ be appropriated for use by the ~~F~~und R~~e~~cipient from the General Improvement Fund.

14. ~~Regulation~~ Rule Supplemental to Current Law - No provision of this ~~Regulation~~ Rule shall be considered to repeal any requirement of existing law or ~~regulations~~ rules promulgated pursuant to existing law.

In witness whereof, we have hereunto set out hands this _____ day of June 2005

Richard A. Weiss, Director
Arkansas Department of Finance and
Administration and Chief Fiscal Officer

Tim Leather, Deputy Director and
Commissioner of Revenue