

# **RULES**

## **THE ARKANSAS ASSISTIVE TECHNOLOGY ALTERNATIVE FINANCING PROGRAM Authorized by Public Law 105-394-Title III, of the Assistive Technology Act of 1998**

1. Definitions
2. Administration
3. Loan Fund Administration
4. Eligibility
5. Appeals Process
6. Committee Action
7. Loan Terms & Conditions
8. Covenants of Borrower
9. Use of Loan Proceeds
10. Waiver of Regulations
11. Loan Administration
12. Confidentiality

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ALTERNATIVE FINANCING PROGRAM**  
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**SUMMARY**

This rule establishes standards for the provision of a statewide low-interest loan program providing financing to eligible persons for purchasing assistive technology equipment and services.

**1. Definitions**

- A. “ADFA” stands for the Arkansas Development Finance Authority.
- B. “AFP” stands for Arkansas Assistive Technology Alternative Financing Program.
- C. “Applicant” stands for any individual that submits an application.
- D. “ARS” stands for Arkansas Rehabilitation Services.
- E. “Assistive Technology/Adaptive Equipment” stands for any item, off the shelf, modified or customized, that is used to increase, maintain, or provide a greater level of functioning in one or more of the major life activities of the individual with a disability.
- F. “Assistive Technology Services” means services that directly assists the individual with selecting, purchasing, or learning to use assistive technology equipment. Such services include:
  - 1. The evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;
  - 2. Services consisting of purchasing or otherwise providing for the acquisition of assistive technology equipment by individuals with disabilities;
  - 3. Services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology equipment;
  - 4. Training, assessment, or technical assistance for an individual with disabilities, or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual.

- G. “Borrower” is defined as a resident of Arkansas with a disability, and their family members, guardians, advocates, or authorized representatives who are residents of Arkansas and intends to use the loan to purchase assistive technology or services on behalf of an Arkansas resident with a disability. That person must have demonstrated: (a) that the loan will be used to acquire assistive technology or other equipment designed to help one or more persons with disabilities to improve their independence, or become more productive members of the community, and (b) the ability to repay the loan.
- H. “Committee” stands for the Technology Equipment Revolving Loan Fund Committee.
- I. “Disability” stands for any physical or mental impairment that substantially limits one or more major life activities.
- J. “Individual” stands for any person with a disability who will benefit from the assistive technology or person who is a family member or primary care giver to the individual with a disability.
- K. “Insurable Property” means assistive technology equipment purchased having a value of at least \$2500.00, and property modified having a value of \$2500.00 prior to or after the modification.
- L. “Interagency Agreement” is a document, which outlines the responsibilities of Arkansas Rehabilitation Services to administer the Alternative Loan Program and Arkansas Development Finance Authority’s responsibilities to manage the Loan Funds.
- M. “Loan” stands for funds disbursed from the Arkansas Assistive Technology Alternative Financing Program Loan Fund account for the purchase of assistive technology equipment or services and associated costs.
- N. “Loan Fund” means the Arkansas Assistive Technology Alternative Financing Program Loan Fund including lendable monies, interest accrued and other funds available for ADFA’s administrative costs.
- O. “Program” stands for the Arkansas Assistive Technology Alternative Financing Program.
- P. “Resident” is a person domiciled within the State of Arkansas at the time of application.

## **2. Administration**

- A. ARS and the Committee shall have the authority to administer the provision of Title III Alternative Financing Programs of the Assistive Technology Act of 1998.
- B. The Committee will develop the AFP guidelines and procedures in collaboration with ADFA and ARS. ARS will designate staff to coordinate the Committee's efforts and other administrative functions necessary for the conduct of the Program. The ARS designated staff will be responsible for but not limited to: 1) the coordination, development and promulgation of rules and procedures; 2) application intake. 3) the certification of disability; 4) the determination of the appropriateness of the equipment or service requested; and, 5) the coordination of marketing and reporting activities. ARS staff will serve as a liaison to the Committee and ADFA.
- C. The Committee will approve and authorize a contract and Interagency Agreement to be established between ADFA and ARS that will delineate ARS' responsibility to administer the Program and ADFA's responsibilities to manage AFP Loan Funds.

## **3. Loan Fund Administration**

- A. All Loan Fund administration will be handled by ADFA. ADFA will evaluate loan applications for creditworthiness, approve, and service the loan until it is paid in full.
- B. ADFA shall maintain a separate permanent account for the AFP Loan Funds.
- C. The Loan Fund Account shall be maintained in an interest bearing account with all interest remaining in the Account.
- D. The loan fund shall maintain a minimum balance to be determined by the committee. The balance will serve as a financing reserve. Authorization to expend funds from the reserves must be granted by the Committee.
- E. ADFA will invest the Loan Fund as provided by the Assistive Technology Act and the Investment Policy developed by ARS, the Committee, and ADFA.

- F. ADFA shall report periodically, as outlined in the procedures, to the Committee and ARS regarding the balance and activities of the Loan Fund; and shall provide the required Department of Education data collection information.
- G. The Loan Fund shall grow interest on investments, appropriations, and loan payments. All interest income will be retained in the Loan Fund.

#### **4. ELIGIBILITY**

- A. Applicants must be a resident of Arkansas with a disability, or a family member, guardian, advocate, or authorized representative who is a resident of Arkansas who intends to use the loan to purchase assistive technology on behalf of an individual with a physical or mental impairment that substantially limits one or more major life activity. When the impairment is temporary, the Committee will determine eligibility on a case-by-case basis.
- B. Supporting documentation required by ARS and ADFA must be provided.
- C. ADFA may determine an applicant is ineligible for the program when the applicant has defaulted on a previous loan made through the program, or violates any provisions of the program, or ceases to meet the requirement of these rules or any standards or policies established by the Committee.
- D. An applicant who has previously been rejected for a Loan from the AFP may not reapply unless the new application is a significant change from the denied application as determined by ARS staff.
- E. Loans shall not be made for the purpose of re-financing any existing loan.

#### **5. APPEALS PROCESS**

- A. If ADFA denies an application, the applicant may make a request for reconsideration of the application to ADFA within the timeframe outlined in the procedures to the Committee.
- B. Initial appeal requests should be made in writing to ADFA, directed to the address provided in the denial letter.

- C. If the situation is not resolved to the applicant's satisfaction, the applicant has the right to appeal to the Committee. Within 20 business days of receiving ADFA's final response to the initial appeal, the applicant may submit a request to ARS to have the matter reviewed by the Committee. The request must be in writing or appropriate alternative format, with all supporting information attached to the request.
- D. The Committee may hear appeals during any regularly scheduled Committee meeting or call a special meeting of the Committee for such purpose.
- E. Designated ARS staff and ADFA will participate in the meeting. The Committee may approve the hearing to be held by teleconference. When the hearing is conducted by teleconference, at least one Committee member will participate in person.
- F. The Committee will:
  - 1. Hear clarification of information already submitted;
  - 2. Provide the applicant an opportunity to be heard;
  - 3. Inform the applicant of its decision at the meeting or within the timeframe outlined in the procedures.
- G. By a formal vote, the Committee has the authority to support the appeal of the applicant, offer an alternative to the applicant such as approval for a lesser amount, approval with other conditions, or turn down the appeal. No Committee member may participate in a vote on an application where that member has a direct or indirect financial interest.
- H. The decision of the Committee will be final.

**6. Loan Fund Sub-Committee Action.**

- A. The Committee may authorize a sub-committee to take action for the AFP program. A quorum of at least 3 active Loan Fund Sub-Committee (LFS-C) members shall be necessary for LFS-C action.
- B. No LFS-C or Committee member may participate in a vote on an application where that member has a direct or indirect financial interest in the outcome of the vote.
- C. ADFA may request to have the Committee review applications when unusual circumstances exist. ADFA shall provide to the Committee information regarding the circumstances of the application.

## 7. Loan Terms and Conditions

- A. Loans shall be made in an amount that is reasonable to acquire the assistive technological equipment and services, as shown by materials submitted with the applications. In no event shall the total loan amount to an applicant exceed \$50,000. Terms shall not exceed 20 years.
- B. The Committee shall establish the loan interest rate parameters. Interest rates in effect at the time an application is received by ADFA are fixed for the term of the loan.
- C. ARS or ADFA may inspect equipment or review proposed services or modifications to be performed to assure they meet assistive technology requirements.
- D. ADFA will file appropriate documents on behalf of ARS to take a security interest in items purchased or modified with AFP funds through such methods as deeds of trust, liens on titled vehicles, and UCC filings for all collateral.
- E. Borrowers will request permission from the Committee and notify ADFA if collateral will be relocated and registered in a state other than Arkansas. Appropriate UCC filings will be conducted for the additional state at the borrowers expense.
- F. When a loan in excess of \$5,000 is to be used for home modifications, the ADFA shall require two bids from licensed contractors before distribution of funds. The contractors must be regularly doing business in the home construction field, must identify a fixed, firm price, and provide turnkey service.
- G. ADFA or the Committee may require additional information on all loans secured by mortgages on real property.
- H. There will be no prepayment penalty on AFP Loans.
- I. A loan is delinquent and in default upon the occurrence of any event as defined in the loan documents.
- J. Borrowers will be assessed late payment and insufficient check fees as established by the committee.
- K. Borrowers shall be referred to a credit counseling service should their loan fall 60 days delinquent.

- L. Borrowers will have a major role in selecting the technology to be purchased. The applicant, with assistance from ARS, should identify more than one manufacturer or source for the technology, unless only one company supplies the product. The applicant must know the cost from each source and what is included in the cost. The applicant must demonstrate awareness of what training and maintenance is available for the technology.
- M. Successful loan applicants shall agree to participate in follow-up surveys conducted by the ARS staff to determine the borrower's satisfaction.
- N. Loans will not be provided for terms that exceed the amortized value or the general life expectancy of the equipment.

## **8. Covenants of Borrower**

The borrower will agree to the following terms and conditions in the loan documentation:

- A. The borrower shall comply with all applicable code, planning, zoning, sanitary, building and environmental laws, ordinances and regulations of the federal, state, and local governments.
- B. The borrower agrees not to convey, lease or transfer any collateral for the loan without the prior written consent of ARS and ADFA.
- C. The borrower will pay, when due, all taxes or charges assessed against any collateral and shall provide proof of payment to ADFA.
- D. The borrower will keep insured to the satisfaction of the Committee all insurable property securing the loan and will maintain the collateral in good condition and repair. ARS shall be named as an additional insured, and will provide proof of insurance to ADFA.
- E. The borrower will repay any advances or expenses of ADFA necessary to protect the collateral or enforce the rights of ARS against the borrower or the collateral.
- F. The borrower will not materially alter or relocate collateral without the prior written approval of and notification to ADFA. ADFA will provide notification to the Committee.
- G. The borrower will comply with such other covenants as the Committee may impose or establish.

**9. Payment of Loan Proceeds.**

- A. ADFA will disburse loan funds directly to the provider of equipment or service.
- B. ADFA, the Committee, and ARS will require an invoice, statement or other documents for all items purchased with loan proceeds.

**10. Waiver of Rules**

The Committee may waive any requirement of this rule, except to the extent that it is mandated by Public Law 105-394, Title III of the Assistive Technology Act of 1998, in cases where the deviation from the rule is insubstantial and is not contrary to the purposes of the Program.

**11. Loan Administration.**

- A. All loan servicing and administration will be the responsibility of ADFA and or it assignee.
- B. ADFA shall prepare all loan documentation, after the loan application has been submitted and approved. ADFA will complete all loan closings.
- C. ADFA will service the loans according to the Interagency Agreement including borrower notification of collection timeframes, and remedies on default.
- D. If the borrower fails to cure default within 30 days, ADFA shall take all appropriate action provided under law and the loan documents. In determining the appropriate action, ADFA shall consider:
  - 1. The likelihood that the loan will be repaid if loan terms are modified and approved.
  - 2. The impact of enforcement and collection on the borrower.
  - 3. The recommendation of the Committee.
- E. ADFA may review requests from borrowers to modify the terms of loan repayments, and submit the request to the Committee State approved policy and procedures. Positive and negative credit history may be reported to appropriate credit bureaus.

- F. With an acceptable reason for non-payment, the Committee may consider the request for modification of loan terms or conditions. Reasons that may be viewed as acceptable include, but are not limited to:
  - 1. Medical/physical change
  - 2. Compounding disability
  - 3. Change in employment status
  - 4. Injury on the job
  - 5. Family expenses that were unexpected
  
- G. ADFA will demonstrate a process of reasonable and timely interventions with the intent of keeping the loan active. Should the Committee believe that repayment is not possible and the reasons are seen as unacceptable, the Committee may authorize ADFA to reclaim the equipment or discharge the debt in accordance with the State of Arkansas debt abatement procedures. In the event the borrower dies and there is not a viable option to pay off the loan, the Committee may discharge the debt and donate the equipment to an ARS assistive technology program.
  
- H. ADFA shall prepare and provide periodic at least quarterly reports to the Committee and ARS detailing all activities, including cost expenditures and reimbursements associated with the AFP program.
  
- I. ADFA will apply payments or other monies received on loans, not in default first to accrued interest, second to principal, then to late charges.
  
- J. In order to protect the integrity of the Loan Fund, the AFP may charge such administration, servicing and document preparation fees as seems reasonable, and as approved by the Committee.
  
- K. Borrowers may repay current interest and outstanding balance, and accelerate payments without penalty.

## **12. Confidentiality**

ARS and ADFA are responsible for complying with the legal requirements to protect the confidential nature of information in individual files, including all individual identifying information contained in reports, lists, and other paper or electronic documents, and for prohibiting unauthorized access to them. In accordance with federal and state regulation, the state will

safeguard the confidentiality of all personal information pursuant to 34C.F.R § 361.38 and the Federal Privacy Act, 5U.S.C.A. § 552A.

Individual's information will be released in only four situations:

- 1) when authorized in writing by the individual,
- 2) in response to a valid subpoena or court order,
- 3) when directly connected with the individual's rehabilitation, or
- 4) in certain emergency and investigative circumstances that pose an immediate threat to the safety of the individual or others.