

MANAGEMENT MEMO

NUMBER:

MM 10-02

DATE ISSUED:

JANUARY 21, 2010

EXPIRES:

JUNE 30, 2013

ISSUING AGENCY:

DEPARTMENT OF GENERAL SERVICES

SUBJECT:

ARCHITECTURE REVOLVING FUND (ARF) DEFICIT RECOVERY – IMPLEMENTATION OF THE LEGISLATIVELY MANDATED ARF ASSESSMENT

REFERENCES:

Government Code Sections 11290, 14953, 14957 to 14959
 Control Section 4.70, Budget Act of 2008
 Control Section 4.70, Budget Act of 2009
 Department of Finance Budget Letter 10-02

PURPOSE

This Management Memo establishes new and reiterates existing statewide policies and procedures regarding the use of the Architecture Revolving Fund (ARF), as well as establishes a methodology to, in part, recover the ARF deficit. It was developed in collaboration with the Department of Finance (Finance) and provides instructions to comply with the implementation of the ARF Assessment pursuant to Budget Letter 10-02.

BACKGROUND

As of January 2008, the ARF had an estimated cumulative deficit approximating \$27.2 million. In collaboration with Finance and the Legislature, the DGS has developed a comprehensive plan to recover the ARF deficit over a five-year period, ending June 30, 2013. The DGS has implemented the necessary steps to ensure that appropriate controls and oversight are in place to prevent the future recurrence of a similar deficit situation.

Government Code 14957 authorizes the ARF as a depository of moneys appropriated for new construction, major construction and equipment, minor construction, maintenance, improvements and equipment, and other building and improvement projects. Most of these projects are managed by the DGS, Real Estate Services Division (RESA).

Client agencies can transfer funds to the ARF from a multitude of fund sources with approval from Finance. The mechanisms for client agencies to transfer funds into the ARF are:

- 1) Public Works Project Authorization and Transfer Request (Form 22) to move various funds into the ARF;
- 2) Public Works Project Authorization Bond Proceeds Funded Projects (Form 220) for bond funded projects;
- 3) Funds from sources other than state appropriations, as may be authorized by written agreement between the contributor or contributors of funds and the DGS; and
- 4) Federal funds reimbursement for use of the ARF.

Effective July 1, 2008, Chapter 268, Statutes of 2008, Control Section 4.70,

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authorized the DGS to assess a surcharge on all new cash (i.e., non-federal or non-bond funded) projects where funds are deposited into the ARF. Beginning in November 2008, the DGS began assessing a 1.233 percent surcharge at the point project costs were estimated. These projects include project planning, special repair, capital outlay, acquisition, major lease, studies, direct construction and equipment. The ARF Assessment (Assessment) will be applied to the overall Project Budget and shall be distributed across the various phases of the project. For example, the 1.233 percent assessment for a project with a budget of \$1,000,000 would be \$12,300 (rounded). The funds received from the Assessment will be used to offset the current ARF deficit.

LEGISLATIVE ACTION

Based on the outcome of the 2008 Legislative Hearings, a multi-faceted approach was adopted to recover the ARF deficit. The approved recovery plan is included as Control Section Language in the Budget Acts of 2008 and 2009:

Architecture Revolving Fund Deficit Recovery Control Section Language

SEC. 4.70. (a) Notwithstanding any other provision of law, the Department of General Services (DGS) shall recover the Architecture Revolving Fund (ARF) deficit beginning in the 2008-09 fiscal year. DGS shall work with the Department of Finance to allocate and collect at least half of the \$27,200,000 deficit incurred by client agencies as identified by DGS over the 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years. DGS shall also assess a surcharge to specified new ARF projects during those fiscal years sufficient to recover the remainder of the ARF deficit. (b) DGS shall provide to the chairpersons of the budget committees of each house of the Legislature and to the Legislative Analyst an annual written update on the following: DGS progress towards recovering the ARF deficit; the rate of the surcharge imposed on new ARF projects; ARF project management training and accountability enhancements; and any unfunded project costs incurred through June 30, 2013. (c) In implementing this section, DGS may not establish a reserve in the ARF.

REQUIRED ACTIONS

To preclude project deficits from occurring, the following actions are required:

- Requests for architectural, engineering and construction pre-planning services (such as scope definition, fee and schedule proposals, and conceptual estimates) will be reimbursed by either direct billing the client through the Service Revolving Fund or by billing funds transferred into the ARF.
- The DGS will closely monitor expenditures to ensure a project has adequate funding to continue in order to avoid stopping work. DGS will notify the client department of the amount of additional funds required in advance to avoid project delays.

In addition to these actions, the DGS is committed to and has implemented necessary steps to ensure that appropriate controls and oversight are in place for

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the ARF. The actions the DGS has taken include:

- Establishing administrative directives and policies and enhanced accountability.
- Improving management information systems.
- Providing staff with project management training.
- Providing problem escalation and mitigation processes.
- Implementing departmental controls.
- Improving communications with Finance and client agencies.

ARF DEFICIT RECOVERY FROM CLIENT AGENCIES

As part of the ARF Deficit Recovery Plan, the DGS and Finance have identified client agency projects with deficits. Pursuant to Control Section 4.70, Budget Acts of 2008 and 2009, and Budget Letter 10-02, DGS will collect at least half of the existing deficit directly from client agencies, with the remaining deficit collected through a Project Assessment, on or before June 30, 2013.

The DGS and client agencies will implement the following solutions to eliminate the ARF deficit:

1. Direct payments to the DGS for projects with deficits as of June 30, 2007 and June 30, 2008.
2. Augmentation requests for open, active Capital Outlay State Public Works projects.
3. Augmentation/fund transfer requests for open, active Special Repair projects.
4. Project Assessments for specified new ARF projects from the 2008-2009 through 2012-13 fiscal years sufficient to recover the remainder of the ARF deficit.

DIRECT PAYMENTS TO DGS

Budget Letter 10-02 provides instructions for making direct payments to the DGS.

IMPLEMENTATION OF ARF PROJECT ASSESSMENT

Public Works Authorization and Fund Transfer Request (Form 22): An ARF Project Assessment of 1.233 percent shall be included and explicitly identified on each Public Works Authorization and Fund Transfer Request Form (Form 22) prepared for cash (i.e., non-bond and non-federal) funded projects. The Assessment shall be calculated and applied to the total dollar value of the Form 22. The total amount of the Form 22 must include both the Assessment and the proposed dollars required to complete the work. In the "Description of Project" box on the Form 22, the DGS will include the following statement as the last paragraph: "In accordance with Control Section 4.70, Budget Acts of 2008 and 2009, the ARF Assessment attributable to this fund transfer is \$XX,XXX (Task XX.005)." The DGS will calculate the dollar amount and provide the appropriate task number.

ARF ASSESSMENT

Calculating the Assessment shall be completed as follows:

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CALCULATION	<p>Major Capital Outlay projects: The 1.233 percent assessment is calculated for each applicable, individual phase, e.g., study, acquisition, preliminary plans, working drawings and construction, and entered on the last line of the "Other Project Costs" section on page 2 of the Project Cost Summary. When a Cost Estimate is prepared, it is not always known whether a project's fund source is from bond sales, federal funds, or other sources. The Assessment for each phase shall be rounded to the nearest thousand dollars. This enables Finance to remove or add the Assessment easily if the fund source is changed.</p> <p>All other projects: The 1.233 percent assessment is calculated for the entire value of the Form 22. If the funding is split between State and Federal sources, the Assessment shall only be applicable to the State portion. The Assessment shall be rounded to the nearest hundred dollars, or will be at a minimum, \$100.</p>
CAPITAL OUTLAY PROJECTS FUNDED IN 2008 BUDGET ACT	<p>Note that the Assessment will not be applied to Capital Outlay projects appropriated in the 2008 Budget Act. However, phases funded in future budget acts will be subject to the surcharge.</p>
NEW SPECIAL REPAIR PROJECTS BEGINNING IN 2008	<p>Beginning in November 2008, the Assessment was applied to all new non-federal and non-bond funded Special Repair projects, i.e., non-Capital Outlay projects. The Assessment must be included in each Form 22. These projects include, but are not limited to, special repair, studies, direct construction and the cash portion of major lease projects.</p>
BUDGET PACKAGES	<p>The Assessment will be included in all non-federal and non-bond funded Capital Outlay Budget Packages prepared for the 2009/10 Fiscal Year and subsequent fiscal years. The Assessment must be entered on the last line of the "Other Project Costs" section on page 2 of the Project Cost Summary.</p>
FUTURE ASSESSMENT ADJUSTMENTS	<p>The Assessment will be reviewed annually and adjusted accordingly. At the completion of each phase of the project, a new Project Cost Summary will be issued with an updated Assessment percentage. If project costs increase, the Assessment amount in the future phases will increase accordingly. Likewise, if project costs decrease, the Assessment will decrease. If the Assessment is adjusted to an amount other than 1.233 percent, future projects' phases will be adjusted to reflect the new rate as they are funded in the budget.</p>
FINANCIAL RECORDING OF THE ASSESSMENT	<p>The Assessment will be processed and revenue accrued immediately from the project upon receipt of the Form 22.</p>

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CONTACT If you require additional information to allocate your repayment, contact Gary Lee at (916) 376-1862 or your Finance Budget Analyst. If you have any questions regarding the process outlined in Budget Letter 10-02, please contact Kristin Shelton at the Department of Finance at (916) 445-8913.

SIGNATURE Original Management Memo is signed by Ron Diedrich, Acting Director

RON DIEDRICH
Acting Director

Attachments:

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STATUTORY AUTHORITIES

Pursuant to the Government Code, DGS has authority to recover its cost of services.

Government Code Section 11290:

The Department of General Services may fix the cost or prorata share, or in its discretion an amount it considers equivalent to the cost or pro rata share, and collect from each state agency in advance or upon any other basis that it may determine:

(a) The cost of insuring motor vehicles belonging to the state agency against liability or damages resulting from the ownership or operation of motor vehicles and arising under Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code or an amount to be expended by the Department of General Services in accordance with law in paying claims under that article and for their investigation, adjustment, defense and administration.

(b) Rent for the use or occupancy of space in any building owned, managed or controlled by the state and used by the state agency in carrying out its work and affairs.

(c) The cost of janitor and maintenance service rendered to the state agency to enable it to carry out its work and affairs.

(d) The cost of bonds covering the officers, employees and servants of the state agency, and the cost of liability, fire, and other types of insurance.

(e) The cost of all other services rendered to the state agency.

Chapter 947/33 established the Division of Architecture Revolving Fund and added it to the former Political Code, Section 363-a. Chapter 118/45 repealed this section of the Political Code and added it to the Government Code, changing the name of the fund to the Architecture Revolving fund, with no substantive change to the provisions of the fund. DGS is the administering agency for this fund.

Government Code Section 14953:

The cost of all architectural services performed by the department for a state agency, which is supported otherwise than by appropriations from the General Fund, except the Veterans' Home, shall be determined by the Director of General Services, and paid from appropriations available for the support of the state agency. All payments for services shall be deposited in the treasury to the credit and in augmentation of the current appropriation for the support of the department.

Government Code Section 14957:

(a) The Division of Architecture Revolving Fund in the State Treasury is continued in existence and is retitled the Architecture Revolving Fund. With the approval of the Department of Finance, and except as otherwise specified in this section, there shall be transferred to, or deposited in, the fund all money appropriated, contributed, or made available from any source, including sources other than state appropriations, for expenditure on work within the powers and duties of the Department of General Services with respect to the construction, alteration, repair, and improvement of state buildings, including, but not limited to, services, new construction, major construction and equipment, minor construction, maintenance, improvements, and equipment, and other building and improvement projects, as authorized by the state agency for which an appropriation is made or, as to funds from sources other than state appropriations, as may be authorized by written agreement between the contributor or contributors of funds and the Department of General Services, when approved by the Department of Finance.

(b) Money from state sources transferred to, or deposited in, the fund for major construction shall be limited to the amount necessary based on receipt of competitive

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bids. Money transferred for this purpose shall be upon approval of the Department of Finance. Any amount available, in the state appropriation, which is in excess of the amount necessary based on receipt of competitive bids, shall be immediately transferred to the credit of the fund from which the appropriation was made.

(c) Money in the fund also may be used, upon approval of the Department of Finance, to finance the cost of any construction projects within the powers and duties of the Department of General Services for which the federal government will contribute a partial cost thereof, provided, written evidence has been received from a federal agency that money has been appropriated by Congress and the federal government will pay to the state the amount specified upon the completion of construction of the project. The Director of General Services may approve plans, specifications and estimates of cost, and advertise for and receive bids on projects in anticipation of the receipt of written evidence from a federal agency.

(d) Money so transferred or deposited is available for expenditure by the Department of General Services for the purposes for which appropriated, contributed, or made available, without regard to fiscal years.

Notwithstanding Section 13340, special fund moneys in the Division of Architecture Revolving Fund, are continuously appropriated to the Department of General Services for these purposes.

Government Code Section 14958:

The Department of General Services shall file against the Architecture Revolving Fund all claims covering expenditures incurred in connection with services, new construction, major construction and equipment, minor construction, maintenance, improvements, and equipment, and other building and improvement projects, and the State Controller shall draw his warrant therefore against that fund.

Government Code Section 14959:

The Department of General Services shall keep a record of all expenditures chargeable against each specific portion of the revolving fund, and any unencumbered balance in any portion of the fund, either within three months after completion of the project for which the portion was transferred or within three years from the time the portion was transferred or deposited therein, whichever is the earlier, shall be withdrawn from the revolving fund and transferred to the credit of the fund from which the appropriation was made or, as to funds from other than state appropriations, be paid out or refunded as provided in the agreement relating to the contributions; provided, that on approval of the Department of Finance the time of the withdrawal may be extended.

For the purpose of this section an estimate, prepared by the Department of General Services upon receipt of bids, of the amount required for supervision, engineering, and other items, if any, necessary for the completion of a project on which a construction contract has been awarded shall be deemed a valid encumbrance and be included with any other valid encumbrances in determining the amount of an unencumbered balance.