

SUBCHAPTER 20 - LOSSES AND RECOVERIES

The ACA references in this document can be found in the [Financial Management Guide](#).

19-4-2001. Notice and proof of loss.

It shall be the duty of the Chief Fiscal Officer of the State to give notice and make proof of loss to, and demand payment of, the surety of any bond executed by any state officer or employee in which the audit report by the Legislative Joint Auditing Committee of the records and accounts shows that such officer or employee and his or her surety may in any way be liable.

History. Acts 1973, No. 876, 18; A.S.A. 1947, 13-344.

19-4-2002. Payment of loss.

(a) Within a reasonable time after the Chief Fiscal Officer of the State has given notice and made proof of loss and demand for payment as prescribed in this subchapter, the surety shall make payment to the Chief Fiscal Officer of the State of the amount so found to be due. The Chief Fiscal Officer of the State shall forthwith transmit the amounts so received to the Treasurer of State with instructions to credit it to the fund, fund accounts, or accounts entitled to such funds.

(b) If the amounts so recovered are funds that are not required by law to be deposited in the State Treasury, then the funds shall be transmitted by the Chief Fiscal Officer of the State to the agency to which the recovered funds belong, with instructions to credit it to the accounts entitled to such funds.

History. Acts 1973, No. 876, 18; A.S.A. 1947, 13-344.

19-4-2003. Legal action.

In the event any surety shall fail or refuse to pay over the amounts so found to be due, the Chief Fiscal Officer of the State shall give notice of the failure or refusal to the Attorney General. The Attorney General shall immediately take such legal action as shall be necessary to collect the amount so found to be due from the officer or employee and his or her surety.

History. Acts 1973, No. 876, 18; A.S.A. 1947, 13-344.

19-4-2004. Auditor's testimony.

(a) In all criminal or civil actions brought as the result of the findings set forth in an audit report, the auditors making the audit shall give testimony upon request of the proper officers of the court and otherwise make their services available in the prosecution of any action.

(b) Auditors shall not be entitled to witness fees for giving testimony.

History. Acts 1973, No. 876, 18; A.S.A. 1947, 13-344.

R1-19-4-2004 Responsibility for Reporting and Recovery of Losses Discovered Prior to Audit

The bonded disbursing officer and the public employee with supervisory fiduciary responsibility over all fiscal matters (ACA 25-1-124) for each state agency, board, commission or institution is responsible for, and held accountable for, reporting any losses of state funds to the Chief Fiscal Officer of the State and to the Arkansas Legislative Audit. Losses include apparent unauthorized disbursements of state funds or the apparent theft or misappropriation of state funds or property.

This report shall be made within five (5) business days of the date that the employee learns of the loss of public funds. A public employee with supervisory fiduciary responsibility over all fiscal matters who purposely fails to report the loss within five (5) business days is guilty of a Class A misdemeanor.

No state agency, board, commission or institution has the authority to negotiate with any officer or employee for settlement of any losses of state funds without the approval of the Chief Fiscal Officer of the State.

The Chief Fiscal Officer of the State and the Director or Chief Officer of the respective agency, in coordination with the advice of the Attorney General, has the duty to determine and initiate the appropriate action that is necessary to collect any amount found to be due the agency.

The recovery of losses under surety bonds must be coordinated with the Chief Fiscal Officer of the State and the Arkansas Legislative Audit.

Recovery of Moneys Lost through Improper Redemption of Warrants/Checks

If a vendor or individual (the payee) receives a replacement warrant/check and cashes both the replacement and original, the agency shall attempt to obtain repayment from the payee. Evidence of the collection attempt(s) shall be documented in writing. If attempts to collect fail, the agency shall report the incident to the Chief Fiscal Officer of the State, the Arkansas Legislative Audit and the Attorney General's office.

If an individual, who is not the payee, cashes a warrant/check, the agency shall report the incident to the Chief Fiscal Officer of the State, the Arkansas Legislative Audit, and the Attorney General's office and to their local law enforcement office.

Recovery of Lost Assets (Not Warrants/Checks)

If theft of assets occurs, the agency shall report the incident to the Chief Fiscal Officer of the State, the Arkansas Legislative Audit, and the Attorney General's office and to their local law enforcement office.

R2-19-4-2004

Recoveries of Losses Discovered by an Audit

Notice and Proof of Losses – Investigations – Restitution

The Arkansas Legislative Audit, with the approval of the Legislative Joint Auditing Committee, will give notice and proof of loss to the Governmental Bonding Board on fidelity bonds. This is done when the audit report reflects apparent unauthorized disbursements or unaccounted-for

funds or property for which the public official, officer or employee may be liable. (ACA 21-2-708)

The Arkansas Legislative Audit may request the appropriate prosecuting attorney or the Attorney General to assist the State or the appropriate political subdivision in obtaining restitution when the audit report reflects apparent unauthorized disbursements or unaccounted-for funds or property for which the public official, officer or employee may be liable.

The Self-Insured Fidelity Bond Program and the participating governmental entity are considered victims. Restitution may be awarded to the participating governmental entity for the entire amount of its non-reimbursed losses and to the Self-Insured Fidelity Bond Program for the entire amount of its payment to the participating governmental entity in the event that any criminal prosecution against the official or employee causing the loss where such official or employee enters a plea of guilty or nolo contendere or where such official or employee is found guilty following a trial.

Disposition of Bond Proceeds

When the Board receives proof of loss from the Arkansas of Legislative Audit, the Governmental Bonding Board will determine whether the loss is covered under the Fidelity Bond Program. (ACA 21-2-709)

When determined that the loss is covered under the Fidelity Bond Program, the Insurance Commissioner will authorize fidelity bond loss payments from the fund to the participating governmental entity on a timely basis.

All disbursing documents for bond claim payments must include as supporting documents:

- 1. A copy of the payment recommendation by the State Risk Manager.*
- 2. A copy of the proof of loss from the Arkansas Legislative Audit.*

Any loss payment may be adjusted by any applicable deductibles, restitution payments or co-insurance payments.

When a loss payment is made from the Fidelity Bond Fund, all rights and claims that the recipients of the loss payment may have against the official, officer or employee involved will be assigned to the Fidelity Bond Fund.

The Insurance Commissioner must timely notify the Division of Legislative Audit and the agency when the Board determines that the loss is, or is not, covered under the Fidelity Bond Program.

An asset that is no longer in possession of the agency must be removed from the agencies books. The agency must notify the Department of Finance and Administration-Office of Accounting (DFA-OA) using [P3-19-4-1503](#), "Credit for State Property" Form that the asset needs to be removed from the asset listing. The agency must give a full description of the lost asset. Once approval to remove the asset has been given, the agency must remove the asset and retain the correspondence for an audit trail. If Fidelity Bond proceeds are received for the reimbursement of a loss of personal property, the proceeds should be deposited into the Treasury

using the agency's normal process for recording cash receipts. The proceeds should be recorded as Insurance Settlement/Restitution in GL 6092000000. If the asset is to be replaced, the agency should request an increase in appropriation from DFA-OA-Appropriations for the purchase of the replacement. If in the current year an agency has been reimbursed for the loss and the property has been replaced, the increase in appropriation is accomplished with a refund to expenditure by the DFA-OA. The agency must provide proof of the deposit and a copy of the invoice that replaced the property in order to have the appropriation restored. If the agency is reimbursed for a prior year loss, the agency should request an increase in appropriation from DFA-OA-Appropriations. The agency must provide proof of the deposit and a copy of the invoice that replaced the property in order to have the appropriation restored.

Refer to [P1-19-4-2004](#) for sample journal entries to record restitution and Fidelity Bond Insurance payments.

Fidelity Bond Premiums

The Risk Management Division of the Insurance Department works with each agency to determine the number of employees to be bonded each year. The flat rate is applied to that number, and DFA-Administrative Services receives the information and sends it to DFA-OA-Funds Group.

The DFA-OA-Funds Group compiles the information on a per fund basis for the agencies. The Funds Group Manager sends the proposed funds and transfer amounts to those agencies that want specific cost centers or funds to be charged. The Funds Group changes the spreadsheet and transfers the funds to the various funds from which Administrative Services will issue the disbursements for the Bond Premiums. This transfer is usually done in July of each fiscal year. (A.C.A 21-2-710)

R3-19-4-2004

Returned Checks

Funds Deposited to Treasury:

When a check that was originally deposited into a Treasury fund is returned for insufficient funds, the Treasurer of State shall reverse the receipt of those funds and notify the agency of the returned check by sending the check back to the agency with a letter telling the agency the fund, revenue code and amount that was reduced. The Treasurer of State shall send a copy of the letter to DFA-OA for the correction to be made into the State Accounting System.

Funds Deposited to Commercial Bank Accounts:

When an agency is notified by the financial institution that a check has been returned, the agency will adjust its cash fund by debiting the revenue account and crediting the cash account in the cash fund where originally deposited.

Agencies shall diligently and actively pursue the collection of returned checks. Written agency procedures shall be developed and filed with DFA-OA within 90 days from the effective date of this regulation. The procedures must be followed to ensure the returned checks are followed up promptly and in a manner that is cost effective.

Employees with access to cash receipts and the recording of cash receipts should not have access to returned checks. In situations where it is impractical to separate duties due to the small number of employees, compensating controls should be implemented. Examples of compensating controls include review of returned checks and collection efforts made or having an individual without access to the system and cash receipts, be the Custodian of the returned checks.

R4-19-4-2004

Accounts and Notes Receivable

State agencies (defined in A.C.A. § 19-2-303 as “a state agency, board, authority, commission, department or institution of higher education created by or receiving an appropriation by the General Assembly of the State of Arkansas”) must promptly record amounts due for delivery of goods and services, licenses, unpaid taxes, student loans, special assessments, accounts receivable, notes receivable and capital leases receivable.

Collection procedures shall be developed and followed to ensure that all receivables are collected promptly in a cost effective manner. Written procedures shall be filed with the Department of Finance and Administration-Office of Accounting (DFA-OA) within 90 days from the effective date of this regulation. Act 50 of 2007 amends A.C.A. § 6-61-131 further outlining the development of policies regarding student accounts receivable at two-year institutions of higher education and reporting requirements with the Arkansas Department of Higher Education.

Agencies shall diligently and actively pursue the collection of receivables. Diligently and actively pursuing the collection of these accounts may include but is not limited to:

- 1. Contacting debtor by phone or letter within a reasonable time after an account is deemed delinquent; or*
- 2. Referring an account to a licensed collection agency or an attorney for collection with a remuneration not exceeding fifty percent (50%) for accounts of five hundred dollars (\$500) or less and not exceeding thirty-three and one-third percent (33⅓%) for accounts in excess of five hundred dollars (\$500). If an agency is unable to procure the services of a collection agency or attorney for the collection of any account in excess of five hundred dollars (\$500) for a fee of one-third (⅓) of the amount recovered as authorized in this subsection, the agency may report this fact to the Legislative Joint Auditing Committee, and the Committee may authorize the agency to pay a higher fee for collecting the account, not to exceed fifty percent (50%); or*
- 3. Pursuing setoff of debt against State income tax refunds for eligible agencies as allowed by ACA § 26-36-301 - 26-36-320; or*
- 4. Pursuing all other available means of collection if deemed feasible and economically justifiable by the agency. (ACA §19-2-305)*

Agencies are to document all efforts made toward the collection of receivables. Agencies are to prepare aging reports at least monthly. Aging reports are required to be reviewed by management, and such review documented on the report as to the action taken.

Accounts receivable records may contain personal information about citizens. Safeguarding and disposition of personal information must be consistent with federal and State laws/regulations applicable to the information.

Allowance for Doubtful Accounts

Generally Accepted Accounting Principles (GAAP) require that a determination be made between receivables deemed to be collectable and those considered not economically collectable, including those not collectable at all. Agencies are to develop and follow written criteria for the determination of those not collectable. These written procedures shall be filed with the DFA-OA within 90 days from the effective date of this regulation. Estimates of total receivables not collectable are to be made at fiscal year end, and adjusting entries are to be recorded in the agency's accounting records to the allowance for receivables not collected.

Abatement Procedures

The procedures that must be followed by state agencies, departments, boards, commissions and institutions to “charge off” moneys owed to them are prescribed in ACA§19-2-301 through 19-2-307. The provisions contained in the law must be complied with before any accounts or notes receivable may be abated. If, after the state agency has pursued collection of the debt owed it as set out above and such debt or partial debt is decreed unable to be collected, then the debt shall be referred to the Chief Fiscal Officer of the State for abatement. Before any debt will be considered for abatement, the State agency shall certify in writing that the above procedures have been complied with and submit detailed support of collection attempts. A statement must be included justifying why any of the above methods were not used, and the agency shall provide a copy of the letter from the attorney or collection agency stating they were unable to collect the bad debt, if applicable.

The Chief Fiscal Officer of the State shall verify that all efforts to collect the indebtedness have been fulfilled. He/she may then, by written approval, declare the debt or remaining debt unable to be collected and notify the State agency and Legislative Joint Auditing Committee of abatement of the debt.

Refer to Appendix [P2-19-4-2004](#), for debt abatement journal entries.

PLEASE NOTE: *Refer and adhere to the provisions of ACA§ 19-2-301 et seq. in applying the above regulation.*