

**VIRGINIA PUBLIC BUILDING AUTHORITY
GUIDELINES FOR JAIL PROJECTS REIMBURSEMENT**

Issue Date: July 16, 1996

STATUTORY AUTHORITY:

§2.1-234.13 and §§ 53.1-80 through 53.1-82 of the Code of Virginia of 1950 as amended.

SUMMARY:

The Guidelines are issued pursuant to §2.1-234.13 and §53.1-82.2 of the Code of Virginia of 1950, as amended (the "Code"), which were amended during the 1996 Session of the General Assembly to establish an additional method of funding reimbursement for a portion of the capital costs of a jail project, made pursuant to Code §§53.1-80, 53.1-81 or 53.1-82. Code §53.1-82.2 allows the General Assembly, upon recommendation from the Department of Planning and Budget, to determine whether to reimburse one or more localities or a regional jail authority or other combination of localities, either (i) in one lump sum payment upon completion of the project, for minor renovation projects, or two equal lump sum payments, one payment at 50% completion of construction and the second at 100% completion of project construction, (ii) over time through a contractual agreement between the localities or authority, and the Treasury Board, or (iii) in one lump sum payment by the Virginia Public Building Authority (the "VPBA") upon completion of the project. The 1996 Code amendment, which provides for funding through the VPBA, resulted from recognition that funding reimbursable capital costs through long-term reimbursement agreements with the Treasury Board was inefficient for the Commonwealth and localities. The reimbursement agreements also unduly impeded localities' financing options and, in some cases, were more expensive compared to funding reimbursement amounts through alternative existing funding vehicles.

The VPBA's duties, as described in Code §53.1-82.2, are to pay the reimbursable amount of the approved capital costs and the Commonwealth's share of the interest costs expended by the locality or regional jail authority for financing the jail project during the period from 50% completion of construction to final completion of the project (the "VPBA Jail Construction Reimbursement Program"). Code §53.1-80 through §53.1-82.3 describe the procedures which localities and regional jail authorities must follow in order to request reimbursement. These Guidelines describe the method by which the State Treasurer will confirm the reimbursement amounts to be paid by the VPBA pursuant to §53.1-82.2. These Guidelines are also intended to aid localities and regional jail authorities in structuring and issuing debt or other obligations to finance their jail facilities. These provisions are Guidelines only and are not intended to have the force and effect of law.

Attached as Appendix A hereto is an application form to be completed and submitted pursuant to Code §53.1-82.3 by any locality or regional jail authority seeking reimbursement pursuant to Code §§53.1-80, 53.1-81 or 53.1-82.

PART I - GENERAL

1.1 Definitions: Capitalized and non-capitalized terms used herein which are not hereinafter defined shall have definitions as assigned in Code §§2.1-234.10 through 2.1-234.28:1 and 53.1-80 through 53.1-82.

Capital Costs. Capital costs as described in Code §53.1-82.2(D), include, but are not limited to, actual construction costs, costs of land acquisition, (if the land purchased is used exclusively for siting a jail facility), architectural and engineering fees, and fixed equipment. These costs do not include administrative costs nor a financial advisor's, an investment banker's or attorney's fees incurred by local governments or, except in the case of minimum-security facilities, loose equipment or furnishings. The amount of approved estimated capital costs is determined by the Commonwealth Board of Corrections.

Corrections' Standards. Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities promulgated and issued by the Board of Corrections adopted May 11, 1994 and effective July 1, 1994, as may be amended or revised from time to time.

Declaration of Intent. A letter issued by the State Treasurer in the form attached hereto as Appendix B, describing the VPBA's intention to issue bonds to fund the approved Capital Costs and the Interest Costs as defined herein, such funding to be contingent upon the receipt of correspondence or occurrence of each of the events as described in Section 4.4 hereof.

Interest Costs. Interest costs, as described in Code §53.1-82.2(A)(3), are the Commonwealth's share of the interest costs expended by the locality, regional jail authority, or combination of localities for financing a jail project during the period from 50% completion of construction to final (100%) completion of construction.

Obligation. Any note, bond, debenture, investment contract or financial instrument issued by an authority or locality for the purpose of financing a jail facility or a portion of a jail facility.

- 1.2 **Requirements:** The reimbursement amount will be calculated pursuant to the parameters and requirements set forth herein. The VPBA, in its sole discretion, may deviate from the aforementioned parameters and requirements if the VPBA's Board determines that conditions warrant such action.
- 1.3 **Professional Staff:** The Department of the Treasury provides staff support to the VPBA. In addition, the VPBA has secured the services of a bond counsel and a financial advisor to assist it in the performance of its duties under the VPBA Jail Construction Reimbursement Program.

PART II - THE REIMBURSEMENT APPLICATION

- 2.1 **Description of the Application:** Attached as Appendix A to these Guidelines is the VPBA's Reimbursement Funding Request Application. The purpose of this application is to obtain certain general information concerning localities' requests for reimbursement funding for approved local or regional jail projects. Information provided in the application will be utilized by the VPBA and the Department of Planning and Budget in evaluating requests and preparing recommendations for funding such projects.

- 2.2 Application Submission Dates:** Applications are to be submitted to the Governor on or before the dates described in Code §53.1-82.3 for localities or authorities requesting reimbursement for jail projects.
- 2.3 Application Package:** A regional jail authority, a locality or a combination of localities undertaking a jail project must submit a complete application package to the Governor in care of the Department of the Treasury. The application package should contain the completed VPBA Reimbursement Funding Request Application, a form of which is attached as Appendix A, and other information, correspondence and documentation described therein.
- 2.4 Amendments to the Application:** Any necessary amendments may be made at any time after the original submission. Material changes or submission of documentation required to complete an application must occur prior to the first day of the month of October immediately following the date the application was submitted in order to allow adequate time for Treasury staff to process budget requests. A mandatory amendment to the application must be submitted to the VPBA once the project is completed unless the application has been previously amended to include all information required by Treasury staff to confirm Interest Costs.
- 2.5 Antecedent Applications.** A regional jail authority or locality who, on or before July 1, 1995, had submitted an application under the Treasury Board Regional Jail Financing Program seeking reimbursement pursuant to Code §53.1-82.2, will be deemed to have satisfied the application requirement described in Section 2.2 above. However, localities or regional jail authorities will be required to comply with the provisions of Section 2.4 above, upon completion of their jail facility.

PART III - CONFIRMATION OF INTEREST COSTS

After a regional jail authority, locality or a combination of localities seeking state assistance submits an application to the Governor in care of the Department of the Treasury in accordance with the dates set forth in Code §53.1-82.3, Treasury staff will review such application and await notification from the Department of Corrections as to the initial amount of approved estimated Capital Costs. This initial amount will be used as the base amount in calculating the Commonwealth's share of Interest Costs for budgeting purposes. The final approved amount of reimbursable Capital Costs, as determined by the Department of Corrections in accordance with Corrections' Standards, will be used as the base amount in calculating the Commonwealth's share of Interest Costs for reimbursement.

Localities will calculate Interest Costs and will request reimbursement for the same in their Reimbursement Funding Request Application. Treasury staff will independently confirm such amount by calculating Interest Costs pursuant to these guidelines.

- 3.1 Jail Projects Financed by Issuance of Obligations:** If a regional jail authority, locality or combination of localities issues obligations to finance its commitment relating to a jail project, Interest Costs will be calculated within the following parameters:

- (1) The terms and structure, including actual coupon rates of the obligations issued to finance the jail project, will be utilized by the VPBA's financial advisor in determining a weighted average cost of capital of the authority's or locality's obligations. Such weighted average cost of capital will be the interest rate applied to the final approved amount of reimbursable Capital Costs, for the applicable period, to calculate Interest Costs. Interest Costs will only include the interest expended during the period between 50% completion and final (100%) completion of the project.
- (2) Pursuant to Code §53.1-82.2 (D), the Commonwealth will reimburse a portion of the approved Capital Costs as determined by the Board of Corrections. The Board of Corrections may approve all or a portion of costs associated with separate portions or phases of a jail project. Different obligations may be issued to finance separate portions or phases of a jail project. Only interest associated with the obligations issued to finance approved Capital Costs or portions thereof, will be utilized by the VPBA in calculating Interest Costs.

3.2 Jail Projects Financed by Method Other Than Issuance of Obligations: If a regional jail authority, locality or combination of localities does not issue obligations but pays its commitment relating to a jail project on an out-of-pocket or pay-as-you-go basis, Interest Costs will be calculated within the following manner:

- (1) Prevailing tax-exempt double-A coupon rates for bonds issued by the Commonwealth will be used to calculate the weighted average cost of capital. The weighted average cost of capital will be calculated by examining the appropriate double-A yield scale published on the date of 50% completion of the project by the Delphis Hanover Corporation ("Delphis"). The relevant double-A yield scale utilized will be based upon a Delphis scale that has been adjusted to reflect the actual yields obtained for all double-A bonds of Commonwealth agencies staffed by the Department of the Treasury that were sold within the prior year. Such average scale will be determined by the Treasury staff, in consultation with the VPBA's financial advisor. Once determined, the weighted average cost of capital will be applied to the final approved amount of reimbursable Capital Costs, for the applicable period, to calculate Interest Costs.
- (2) Pursuant to the Code, the Commonwealth will reimburse a portion of the approved Capital Costs as determined by the Board of Corrections. The Board of Corrections may approve all or a portion of costs associated with separate portions or phases of a jail project. Different methods may be used to finance separate portions or phases of a jail project. Accordingly, only interest associated with the financing method used to finance approved Capital Costs or portions thereof, will be utilized by Treasury staff in calculating Interest Costs.

3.3 Determination of Completion Dates: For the purpose of calculating Interest Costs, the dates upon which a local or regional jail project reaches 50% completion of construction and final (100%) completion of construction will be determined by the Department of Corrections as follows:

- (1) The date upon which construction of a jail facility is deemed to be 50% complete will be the date upon which 50% of the work is completed on such jail facility as determined by evaluating the schedule of values and contractor reports.
- (2) The date upon which construction of a jail facility is deemed to be 100% complete will be the date upon which the locality or regional jail authority submits its Request for Final Lump Sum Reimbursement as described in Section 4.3 of Corrections' Standards.

PART IV - STANDARDS FOR REIMBURSEMENT

4.1 The Declaration of Intent: Subsequent to the determination by the General Assembly that a reimbursement of approved Capital Costs for a jail project will be funded by the VPBA, the VPBA shall, upon written request from a locality, regional jail authority or combination of localities, prepare a Declaration of Intent, the form of which is attached hereto as Appendix B.

4.2 Procedures for Reimbursement and Delegation to State Treasurer: Pursuant to the Code, the Commonwealth will reimburse a portion of the approved Capital Costs as determined by the Board of Corrections. The Board of Corrections will notify the VPBA as to the final approved reimbursable Capital Costs once the project is completed. Within 30 days, or as soon thereafter as reasonably practicable, of receiving written notice from Corrections as described in Section 4.4 (6) hereof, the VPBA will pay to the regional jail authority the approved portion of Capital Costs and Interest Costs; provided however, that payment is contingent upon the receipt by Treasury staff of certain information and the occurrence of certain events as described in Section 4.4 below.

The VPBA Board will have delegated to the State Treasurer the ability to confirm the Interest Costs to be reimbursed on jail projects and to reimburse localities, regional jail authorities or combinations of localities pursuant to the Code and these Guidelines subject to the receipt of certain information and the occurrence of certain events as described in Section 4.4 below.

4.3 Method of Reimbursement: Reimbursement installment amounts shall be paid by check or wire transfer, as indicated by the regional jail authority, locality or combination of localities in the application for reimbursement.

4.4 Requirements for Reimbursement: Any reimbursement amounts paid pursuant to these Guidelines are contingent upon the receipt by Treasury staff of certain information or the occurrence of certain events, such information and events shall include but shall not be limited to the following:

1. Submission of a reimbursement application to the VPBA and the Department of Corrections pursuant to Code §53.1-82.3.
2. Initial approval of the project and determination of the initial amount of approved estimated Capital Costs by the Board of Corrections as evidenced by a letter from the Department of Corrections.
3. General Assembly authorization for reimbursement in one lump sum payment through the VPBA pursuant to §2.1-234.13 and §53.1-82.2.
4. Determination of the revised amount of approved Capital Costs by the Board of Corrections as evidenced by a letter from the Department of Corrections, if applicable.
5. Final (100%) completion of the project as determined by the Department of Corrections in accordance with Part IV of Corrections' Standards.
6. Receipt by Treasury staff of correspondence from the Department of Corrections (i) showing the final amount of approved Capital Costs, (ii) stating the dates of 50% and 100% completion of construction (for the purposes of confirming Interest Costs) determined in accordance with Section 3.3 hereof, and (iii) stating that the project is 100% complete pursuant to Corrections' Standards thereby approving payment to the locality, regional authority or combination of localities.
7. Receipt by Treasury staff of sufficient information from the locality or regional jail authority for the purposes of confirming the reimbursable Interest Costs and calculation of such amount. Such information shall include, but is not limited to, the following:
 - a. The locality's or authority's estimate of the date in which the project was determined to be 50% complete;
 - b. The date on which the locality or authority submitted its Request for Final Lump Sum Reimbursement to the Department of Corrections;
 - c. Two (2) copies of the Official Statement, or other offering or loan documents, related to the obligations issued by the locality or regional jail authority to finance the jail project, if any; and
 - d. Such other information as reasonably requested by Treasury staff.

4.5 Receipt for Reimbursement Amount: Upon receipt of any reimbursement amounts paid pursuant to these Guidelines, an authorized representative of the locality or regional jail authority will be required to execute a receipt in form satisfactory to the VPBA which states that the locality or regional jail authority has received such reimbursement amount and that such amount has been applied pursuant to any existing agreements among localities and other interested parties relating to the financing and/or operation of the jail facility.

PART V - ADDITIONAL INFORMATION

- 5.1 Contact:** A current application form, and assistance in preparation of applications to the Governor as required by the Code of Virginia by localities, regional jail authorities or other combination of localities seeking reimbursement for a jail facility, may be requested by contacting:

Department of the Treasury
Attn: Director of Debt Management
VPBA Jail Construction Reimbursement Program
P. O. Box 1879
Richmond, Virginia 23218-1879
(804) 225-4927
Telecopier: (804) 225-3187

APPENDIX A

VPBA Reimbursement Funding Request Application

**Local/Regional Jail Construction Financing
Reimbursement Funding Request Application**

Submitted to:

Governor of Virginia
c/o Department of the Treasury
Attn: Director of Debt Management
VPBA Jail Construction Reimbursement Program
P. O. Box 1879
Richmond, Virginia 23218-1879
(804) 225-4930
Telecopier: (804) 225-2142

On Behalf of:

Name of Locality/Regional Jail Authority: _____

Name of Project: _____

Date of Funding Request Application: ____/____/____

Submitted/Prepared by (this individual should be authorized by participating localities to complete this Application on their behalf):

Name: _____

Title: _____

Signature: _____

Reimbursement Funding Request Application
[Name of Locality/Regional Jail Authority]
[Date of Application]

The purpose of this questionnaire is to obtain certain general information concerning localities' request for reimbursement funding in accordance with §§53.1-80 through 53.1-82.3 of the Code of Virginia. Nothing contained in this application should be construed as an approval for funding nor that such funding if approved would be available in the amounts or years requested. Likewise, certain terms and conditions of this request will be reviewed by the Department of the Treasury, in accordance with the Virginia Public Building Authority's Guidelines for Jail Projects Reimbursement ("Guidelines"), to determine whether adjustments should be made to the calculation of Interest Costs.

A copy, facsimile, or diskette version of this application can be obtained from the Department of the Treasury, P.O. Box 1879, Richmond, Virginia 23218-1879, ATTN: Director of Debt Management (804) 225-4927.

A. Project and Financing Proposal Characteristics:

- (a) Describe the jail project.

- (b) Identify the localities who will or currently participate in the project. Describe the relative financial support each locality plans to provide in this project (e.g. 20% Locality A, 80% Locality B, etc.)

- (c) Describe how will the project be financed.

- (d) List the submittal date of the local/regional jail project reimbursement request to the Department of Corrections and the date of approval for reimbursement from the Commonwealth Board of Corrections, if applicable.

Submittal Date: ___ / ___ / ___

Date of Approval: ___ / ___ / ___

- (e) List the total amount of estimated capital costs to be reimbursed by the Commonwealth, as approved by the Commonwealth Board of Corrections.

Reimbursement Funding Request Application
[Name of Locality/Regional Jail Authority]
[Date of Application]

B. Required Attachments.

- (a) Documents pertaining to the approval for project reimbursement by the Board of Corrections and the Department of Corrections.
- (b) Estimated construction start date, 50% completion date and 100% completion date. Also attach an estimated construction draw schedule.
- (c) If you intend to finance the project by issuing obligations, please attach a detailed financing schedule.
- (d) Any other documents which pertain to the financing proposal or further explain the financing proposal. If obligations have been issued, attach copies of offering or loan documents.

C. Contacts

- 1. If more than one locality is participating in this project, please attach a list of each of the localities to be affected by this proposal. Include the names, addresses and phone numbers of contact individuals at each locality.
- 2. (a) Principal Contact for the Project: **(All further correspondence will be directed to this person unless noted)**

Name / Title _____

Mailing Address _____

Hand-Delivery Address _____

PHONE: () - _____

FAX: () - _____

- (b) Has this individual/locality been authorized by the other participating localities, if applicable, to complete this application and/or take action on their behalf? (YES/NO)

APPENDIX B

Form of Declaration of Intent

Form of Declaration of Intent

_____, 19__

[Addressed to locality or Authority]

Re: Virginia Public Building Authority
[] Jail Facility
Construction Reimbursement Program - Declaration of Intent

Dear _____:

The General Assembly of the Commonwealth of Virginia has determined, pursuant to Chapter __, 19__ Acts of the Assembly, in accordance with Section 53.1-82.2, et. seq. of the Code of Virginia of 1950, as amended (the "Virginia Code"), that on recommendation from Department of Planning and Budget of the Commonwealth, [insert name of locality or authority] is to be reimbursed for the applicable portion of the capital costs as determined by the Board of Corrections and certain related interest costs of a jail project in one lump sum payment by the Virginia Public Building Authority upon completion of the project.

In accordance with Section 2.1-234.25 of the Virginia Code, the Authority has authorized me, as State Treasurer, to confirm that the Authority intends to issue its revenue obligations to fund the approved capital costs and certain related interest costs of the above-referenced jail project, in accordance with Sections 2.1-234.13 and 53.1-82.2 of the Virginia Code, contingent upon the receipt of the correspondence or occurrence of the events described in Section 4.4 of the Authority's Guidelines for Jail Projects Reimbursement dated July 16, 1996, as may be amended from time to time. In that regard, by resolution adopted on July 16, 1996, the Authority has authorized me, as State Treasurer, to determine the final amount of interest costs to be reimbursed.

Very truly yours,

State Treasurer

cc: Chairman, Virginia Public Building Authority