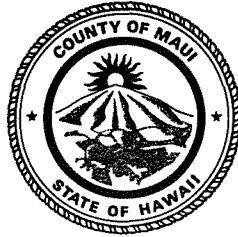


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April 8, 2014

T O: Mike White, Chair
Budget and Finance Committee

F R O M: Jeffrey Ueoka, Deputy Corporation Counsel 1 u

S U B J E C T: FISCAL YEAR ("FY") 2015 BUDGET (CC-2)(BF-1)

We are in receipt of your request dated April 7, 2014 regarding the Construction Plan Review Revolving Fund (Section 18.24.010, Maui County Code ("MCC")) and respond to your requests/questions as follows:

1. Can the Construction Plan Review Revolving Fund (Section 18.24.010, Maui County Code ("MCC")) be used for in-house payroll costs?

The Construction Plan Review Revolving Fund could be used to pay "in-house payroll costs" as they relate to overtime costs for plan checking, permit processing and inspections. Section 18.24.010(E), MCC, reads as follows:

There is established and created a fund to be known as the "Construction Plan Review Revolving Fund." The fees collected pursuant to subsection 18.24.010D of this code are deemed appropriated upon receipt and are authorized to be expended for the hiring of persons employed on a fee, contract or piecework basis, or independent contractors to assist in plan checking, permit processing, and inspections. **The fees may also be expended for payment of overtime for plan checking, permit processing, and inspections.** (Emphasis added.)

2. May monies from the Construction Plan Review Revolving Fund be used to purchase computer hardware or software or other equipment or supplies for plan review purposes, or would such use of the monies in the fund require an amendment to Section 18.24.010, MCC?

We would recommend an amendment to Section 18.24.010, MCC, before the Construction Plan Review Revolving Fund is utilized for the purchase of computer hardware or software or other equipment for plan review purposes. Currently, Section 18.24.010(E), MCC, is somewhat specific in the types of expenditures that are authorized and the types of expenditures contemplated in this question do not appear to be a valid use of the Fund.

3. May monies from the Construction Plan Review Revolving Fund be used for plan reviews conducted by the Department of Public Works Engineering Program?

Monies from the Construction Plan Review Revolving Fund may be used for plan reviews conducted by the Department of Public Works Engineering Program, insofar, as they relate to overtime costs for plan checking, permit processing, and inspections.

4. Does the Maui County Code restrict the use of equipment, including vehicles, purchased with monies from the Plan Review, Permit Processing, and Inspection Revolving Fund (Section 16.26B.108.2.1, MCC) to operations funded by the same fund? Or, may plan review operations and personnel funded by the General Fund use equipment and vehicles purchased using monies from the Plan Review, Permit Processing, and Inspection Revolving Fund?

Section 16.26B.18.2.1, MCC, reads, in relevant part:

There is hereby established and created a fund to be known as the "Plan Review, Permit Processing, and Inspection Revolving Fund." The fees collected pursuant to this subsection are hereby deemed appropriated upon receipt and may be expended for salaries, training, contracts, rent payments, fixtures, materials, supplies, and **equipment that facilitate plan review and for payment of overtime for plan checking, permit processing, and inspections.** (Emphasis added)

The Section does not appear to contain a restriction limiting the use of equipment purchased with monies from the fund to those operations funded by the same fund and we are not aware of any other general code provisions limiting the use of the equipment purchased with monies from the fund. In the absence of a restriction to the contrary, plan review operations and personnel funded by the General Fund may use equipment and vehicles purchased using monies from the Plan Review, Permit Processing, and Inspection Revolving Fund, provided, that the expenditures are related to the facilitation of plan review or for the payment of overtime for plan checking, permit processing, and inspections.

APPROVED FOR TRANSMITTAL:


PATRICK K. WONG
Corporation Counsel

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