

INDUSTRIAL ECONOMIC DEVELOPMENT ACCESS FUND POLICY

CHAPTER 271.

24 VAC 30-271-10. Purpose.

The policies and procedures set forth in this chapter govern the use of ~~industrial~~ economic development access funds derived from taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes or any other state revenue allocated for highway purposes. Any access road constructed or improved under this chapter shall constitute a part of the secondary system of state highways or the road system of the locality in which it is located and shall thereafter be constructed, reconstructed, maintained and improved as other roads in the system of which it is a part.

24 VAC 30-271-20. General provisions.

A. The use of ~~industrial~~ economic development access funds shall be limited to:

1. Providing adequate access to economic development sites on which new or substantially expanding manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters and industrial facilities, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Business Assistance; and
2. Improving existing roads that may not be adequate to serve ~~new industry or substantially expanding manufacturing, processing and industrial facilities, or other~~ the establishments as described in subdivision A 1 of this section.

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B. ~~Industrial~~ Economic development access funds shall not be used for the acquisition of rights of way or adjustment of utilities. These funds are to be used only for the actual construction and engineering of a road facility adequate to serve the traffic generated by the new or expanding eligible establishments.

C. ~~Industrial~~ Economic development access funds may not be used for the construction of access roads to schools, hospitals, libraries, airports, armories, speculative office buildings, shopping centers, apartment buildings, professional offices, residential developments, churches, hotels, motels, government installations, or similar facilities, whether public or private. (Access roads to licensed, public-use airports, while provided for in § 33.1-221 of the Code of Virginia, are funded and administered separately through 24 VAC 30-450, Airport Access Funding.)

D. No cost incurred prior to the board's approval of an allocation from the ~~industrial~~ economic development access funds may be reimbursed by such funds. ~~Industrial~~ Economic development access funds shall be authorized only after certification that the ~~manufacturing, processing or other establishment~~ economic development establishment as listed or meeting the criteria as described will be built under firm contract, or is already constructed, or upon presentation of acceptable surety in accordance with § 33.1-221 A of the Code of Virginia.

E. When an eligible establishment is not yet constructed or under firm contract and a local governing body guarantees by bond or other acceptable surety that such will occur, the maximum time limit for such bond shall be five years, beginning on the date of the allocation of the ~~industrial~~ economic development access funds by the Commonwealth Transportation Board. At the end of the five-year period, the amount of ~~industrial~~ economic development access funds

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expended on the project and not justified by eligible capital outlay of one or more establishments acceptable to the board shall be reimbursed to the Department of Transportation voluntarily by the locality or by forfeiture of the surety. The bonded period for projects approved between March 21, 1996, and July 1, 1999, shall be extended for a period of two additional years beyond their original expiration dates, contingent upon the affected locality providing acceptable surety for the extended period. In the event that, after the Department of Transportation has been reimbursed, but still within 24 months immediately following the end of the five-year period, the access funds expended come to be justified by eligible capital outlay of one or more eligible establishments, then the locality may request a refund of one-half of the sum reimbursed to the Department of Transportation, which request may be granted if funds are available, on a first-come, first-served basis in competition with applications for access funds from other localities.

F. ~~The following restrictions or allowances apply to the use of industrial access funds:~~

1. ~~Economic development~~ Industrial access funds shall not be used to construct or improve roads on a privately owned plant site. Nor shall the construction of a new access road to serve any industrial site on a parcel of land ~~that~~ which abuts a road constituting a part of the systems of state highways or the road system of the locality in which it is located be eligible for ~~industrial~~ economic development access funds, unless the existing road is a limited access highway and no other access exists. Further, where the existing road is part of the road system of the locality in which it is located, or the secondary system of state highways, ~~industrial~~ economic development access funds may be used to upgrade the existing road only to the extent required to meet the needs of traffic generated by the new or expanding ~~industrial facility~~ eligible establishment.

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2. In the event an ~~industrial~~ economic development site has access according to the foregoing provisions of this chapter, but it can be determined that such access is not adequate in that it does not provide for safe and efficient movement of the ~~industrial~~ traffic generated by the ~~industry~~ eligible establishment on the site or that the site's traffic conflicts with the surrounding road network to the extent that it poses a safety hazard to the general public, consideration will be given to funding additional improvements. Such projects shall be evaluated on a case-by-case basis upon request, by resolution, from the local governing body. Localities are encouraged to establish planning policies that will discourage incompatible mixes such as industrial and residential traffic.

G. ~~The following funding limitations and procedures apply to the use of industrial access funds:~~

4. Not more than \$300,000 of unmatched ~~industrial~~ economic development access funds may be allocated in any fiscal year for use in any county, city or town ~~that~~ which receives highway maintenance payments under § 33.1-41.1 of the Code of Virginia. A town whose streets are maintained under either § 33.1-79 or § 33.1-82 of the Code of Virginia shall be considered as part of the county in which it is located. The maximum eligibility of unmatched funds shall be limited to 10% of the capital outlay of the designated ~~industry or industries~~ eligible establishments. The unmatched eligibility may be supplemented with additional ~~industrial~~ economic development access funds, in which case the supplemental access funds shall be not more than \$150,000, to be matched dollar-for-dollar from funds other than those administered by this board. The supplemental ~~industrial~~ economic development access funds over and above the unmatched eligibility shall be limited to 5.0% of the capital outlay of the designated ~~industry or~~

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~~industries~~ eligible establishments as previously described. Such supplemental funds shall be considered only if the total estimated cost of eligible items for the ~~individual~~ economic development access improvement exceeds \$300,000.

2. If an eligible site is owned by a regional industrial facility authority, as defined in ~~Chapter 64~~ (§ 15.2-6400 et seq.) of Title 15.2 of the Code of Virginia, funds may be allocated for construction of an access road project to that site without penalty to the jurisdiction in which the site is located. This provision may be applied to one regional project per fiscal year in any jurisdiction with the same funding limitations as prescribed for other individual projects.

H. Eligible items of construction and engineering shall be limited to those that are essential to providing an adequate facility to serve the anticipated traffic while meeting all appropriate Commonwealth Transportation Board and state policies and standards. ~~Items such as storm sewers, curb and gutter, and extra pavement width will not normally be eligible~~. However, additional pavement width or other features may be eligible where necessary to qualify the road facility in a city or town for maintenance payments under § 33.1-41.1 of the Code of Virginia.

I. It is the intent of the board that ~~industrial~~ economic development access funds not be anticipated from year to year. Unused eligibility cannot be allowed to accumulate and be carried forward from one fiscal year to another.

J. The Commonwealth Transportation Board will consult and work closely with the Virginia Economic Development Partnership (VDEP) and the Department of Business Assistance (DBA) in determining the use of ~~industrial~~ economic development access funds and ~~may~~ will rely on the recommendations of ~~this department~~ the VDEP and the DBA in making decisions as to the

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allocation of these funds. In making its recommendations to this board, the ~~Department of Business Assistance~~ VDEP and the DBA will take into consideration the impact of the proposed facility on the employment and tax base of both the area in which the facility is to be located and the Commonwealth of Virginia. ~~The determination by the Department of Business Assistance that the subject establishment impacts the economic growth of the Commonwealth to such an extent that an allocation should be made regardless of the manufacturing or distributive classification will be given considerable weight by this board.~~

K. Prior to the formal request for the use of ~~industrial~~ economic development access funds to provide access to new or expanding ~~industries~~ eligible establishments, the location of the access road shall be submitted for approval ~~of the engineers of~~ by the Virginia Department of Transportation. ~~The engineers~~ VDOT shall take into consideration the cost of the facility as it relates to the location and as it relates to the possibility of the future extension of the road to serve other possible ~~industrial~~ eligible establishments, as well as the future development of the area traversed.

L. Prior to this board's allocation of funds for such construction or road improvements to an ~~industry~~ eligible economic development establishment proposing to locate or expand in a county, city or town, the governing body shall by resolution request the access funds and shall be responsible for the preliminary negotiations with the ~~industries~~ eligible establishment and others interested. Engineers of the Virginia Department of Transportation will be available for consultation with the governing bodies and others, and may prepare surveys, plans, engineering studies, and cost estimates.

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M. The Commonwealth Transportation Commissioner is directed to establish administrative procedures to assure the provisions of this chapter and legislative directives are adhered to and complied with.

CERTIFICATION

I certify that this regulation is full, true, and correctly dated.

Acting Commonwealth Transportation Commissioner
Gregory A. Whirley

Date