

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
THE FINES/FEES AND RESTITUTION)	Administrative Order
ENFORCEMENT PROGRAM: "FARE")	<u>No. 2003- 126</u>
)	(Replacing Administrative
)	Order No. 2003-79)

Administrative Order No. 2003-79, signed August 12, 2003, established the Fines/Fees and Restitution Enforcement Program "FARE." The Order directed the Administrative Office of the Courts (AOC) to begin implementation of the FARE Program, and specified some of the initial steps to be taken, including implementation of FARE in pioneer courts, provision of local collection services, processing of existing delinquent payment cases and establishment of an advisory committee, the FARE fund, and one of the required FARE fees.

In accordance with the Order, the AOC has been working with the pioneer courts, Affiliated Computer Services, Inc. (ACS), the selected private partner for FARE, and other governmental entities to implement FARE. This cooperative effort has resulted in some modifications to the original plan for implementation of FARE as well as additions to the fee schedule. Therefore, modifications and additions to the original order are required.

Now, therefore, pursuant to Article VI, Section 3 of the Arizona Constitution,

IT IS ORDERED approving the following modifications and additions to the original plan for implementation of FARE, as specified in Administrative Order No. 2003-79.

IT IS FURTHER ORDERED that this Order replaces Administrative Order No. 2003-79, dated August 12, 2003.

FARE SERVICES

FARE will provide local courts with a suite of services including, but not limited to, the following:

1. reminder notices;
2. web and telephone based credit and debit card payments;
3. delinquency notices;

4. installment payment plan services;
5. referral to the Tax Intercept Program (TIP);
6. referral to the Traffic Ticket Enforcement Assistance Program (TTEAP);
7. electronic skip tracing;
8. case record data enhancement; and
9. advanced collection services including credit bureau reporting, wage garnishment and offender location services as authorized by the court.

INITIAL IMPLEMENTATION

1. “Pioneer Courts”

Pursuant to Administrative Order No. 2003-79, the following “pioneer courts” are working with the AOC and ACS to develop and implement the FARE Program:

Chandler Municipal Court
Central Phoenix Justice of the Peace Court
East Phoenix #1 Justice of the Peace Court
Phoenix Municipal Court
Showlow Municipal Court
Tucson Municipal Court
West Phoenix Justice of the Peace Court

The development includes building the connectivity between ACS electronic systems and those of the AOC and local courts as appropriate to implement the FARE Program and establishment of schedules for implementation for each court.

2. “Interim FARE Courts”

Some of the services of FARE, specifically, referral to the Traffic Ticket Enforcement Assistance Program (“TTEAP”), the Tax Intercept Program (“TIP”) and special collections, are available to non-pioneer courts at this time. AOC staff shall identify courts that could benefit from these services and work with these courts and ACS to implement these components of FARE. The courts receiving these services shall be identified as “interim FARE Courts.” Schedules shall be established with each court for implementation of the TTEAP, TIP, and special collections services in the court, and subsequently, for transition of the court to benefit from all components of FARE.

Following the successful implementation of FARE in the pioneer and interim FARE courts, the AOC shall work with all other courts to implement the program across the state.

3. Local Collection Services

Any local court planning to expand its existing collection services, independent of or separate from the FARE Program herein described, shall submit any such proposed plan to the Arizona Judicial Council for approval before proceeding with development and implementation. Pursuant to Administrative Order No. 2003-79, the Arizona Judicial Council has delegated review and approval of local court plans to the Administrative Director of the Courts and has established criteria for that review, attached as Appendix B. Courts proposing a local collection plan should submit the plan to the administrative director including sufficient detail for review according to the specified criteria.

For the purposes of this Order, “expansion” is defined as any activity that requires capital fund expenditures, binding contractual obligations or technology development or enhancement, including web-related services, but does not include maintenance of existing collection services or renewal of an existing contract. Release of a request for proposal or request for qualifications is defined as “expansion” and therefore requires approval before proceeding. A court that did not have a collection program prior to August 12, 2003, shall not develop a program or contract with a private vendor for collection services without approval of the plan by the Council or the administrative director. Submission of such plans is hereby mandated in order to provide more consistent and better coordinated services to customers throughout the state and to realize efficiencies for taxpayers by minimizing investment in duplicative services. This requirement applies to all courts, whether or not the court is participating in the FARE Program as a pioneer or interim FARE court. Further, this requirement will continue to apply to all courts after implementation of the FARE Program in the pioneer and interim FARE courts and rollout to other courts across the state.

4. Delinquent Cases

All delinquent court ordered financial obligations that have not been otherwise assigned to private collection services, or actively worked by a warrant officer or other governmental collection activity, shall be referred to ACS for special collection services, unless the court has an approved local collection plan and these cases are assigned to other private collection services pursuant to the plan. This applies to all courts, whether or not the court is participating in the FARE Program as a pioneer or interim FARE court. The AOC shall determine which delinquent debt qualifies for special collection services according to criteria established by the AOC in consultation with ACS in accordance with the ACS contract and transfer the debt to ACS for collection services as appropriate.

ADVISORY COMMITTEES

An ad hoc advisory committee shall be established consisting of representatives of the pioneer and interim FARE courts and the AOC as appointed by the Chief Justice. The ad hoc advisory committee shall make recommendations to the Chief Justice on program business rules, policies and procedures, and implementation of the program statewide. The ad hoc advisory committee shall provide periodic updates

to the Arizona Judicial Council on the progress of the FARE Program. The ad hoc advisory committee shall terminate upon the successful implementation of the FARE Program in the pioneer and interim FARE courts and shall be replaced by a standing FARE Advisory Committee with statewide representation from limited jurisdiction courts and the Superior Court.

FARE FEE SCHEDULE

1. To provide the additional services of the FARE Program, a FARE general services fee, delinquency fee, special collections fee, and an installment payment plan fee are necessary to cover the costs incurred to implement and operate FARE. Therefore, the “FARE Fee Schedule,” attached as Appendix A, is adopted.
2. The FARE fees shall be assessed for each civil violation of a local ordinance, civil traffic violation, petty offense, misdemeanor and felony charge where a financial sanction is imposed, beginning on the agreed upon date for implementation of the FARE Program in a court. The FARE fees do not apply to parking violations, except for default parking violations filed with the court. The fees shall be in addition to any fines, fees or surcharges authorized by statute or city or county ordinance.
3. A judge shall not waive or suspend the FARE fees unless the judge waives or suspends all monetary obligations, except that the delinquency fee may be waived if the judge states on the record that extraordinary circumstances exist. Extraordinary circumstances are defined as incarceration, deployment for military service, hospitalization, a serious medical illness or a death in the immediate family which prevent the defendant from timely responding to the notices and satisfying the court obligation.
4. The FARE fees shall be in the next category of priority for payment following the time payment fee established pursuant to A.R.S. §12-116(A). The advisory committee shall recommend business rules for application of this priority payment.
5. Each court collecting FARE fees shall transmit the fees through the city or county treasurer, as appropriate, to the State Treasurer. All fees collected during a month shall be transmitted to the State Treasurer by the fifteenth day of the succeeding month.

FARE FUND AND EXPENDITURES

1. The AOC has established a FARE Program account with the State Treasurer and the General Accounting Office. Funds deposited into this account shall include all FARE general services, delinquency, special collection services, and installment payment plan fees. All interest earned on monies in this account shall be deposited in this account.

2. The AOC shall administer the FARE fund and shall expend revenues in the fund to pay the operational costs incurred by the FARE Program. Payment priority shall be as follows: ACS for services rendered; other governmental agencies involved in the FARE Program for services, as required by law; and the AOC and local courts for costs of operating the FARE Program. The payment to ACS shall be pursuant to the contract fee schedule adopted by the AOC and ACS. After payment of ACS and other governmental agencies, the remaining balance of any revenues shall be divided between the AOC and local courts to recover costs incurred. Subject to the availability of funds, each participating court shall receive reimbursement for data entry, programming, payment processing, and other FARE-related duties that may increase workload. The AOC shall establish reimbursement criteria. The criteria shall take into account local courts' cost of computer programming, the timely and accurate provision of data entry and payment processing services and information, and revenues collected.

Dated this 22nd day of December, 2003.

CHARLES E. JONES
Chief Justice

**APPENDIX A
FARE FEE SCHEDULE**

General Services Fee **\$7.00 per Charge**

This fee shall be charged by a court participating in the FARE Program on all charges where a sentence or judgment with a financial sanction is imposed on or after the effective date of implementation of the FARE Program in the court. The effective date for implementation of the FARE Program shall be determined by the AOC and the participating court. This fee applies even if the defendant pays in full at the time of the citation but does not apply if the judge orders the defendant to satisfy the full financial sanction through community service, time served or some other non-monetary satisfaction of the sanction. This fee is not subject to any surcharge authorized by statute or city or county ordinance.

This fee covers the costs of producing and mailing notices, skip tracing notices returned as undeliverable and notifying the court when a good address is obtained, and web and telephone based payment services, including payment by credit and debit card.

Installment Payment Plan Fee - Local Court Option **\$10.00 per Plan**

This fee shall be charged administratively only if the local court has chosen to have ACS manage the installment payment plans and only when all services of FARE are implemented in the court. This fee is in addition to the time payment fee imposed pursuant to A.R.S. §12-116 (A).

This fee covers the costs associated with a local court opting to have ACS manage installment payment plan agreements including mailing the initial payment schedule, monthly billing notices, skip tracing of any returned notices and notification to the court of new addresses, and failure to comply with the installment payment plan agreement.

Delinquency Fee **\$35.00**

This fee is charged administratively when a case is identified by FARE as delinquent. A delinquent case is defined as a case where the court has made at least two collection attempts and the case is a candidate for TTEAP, TIP or both. This fee applies to all cases submitted to TTEAP, TIP or both.

This fee covers the costs associated with submission to TTEAP and reimbursement to the Motor Vehicle Division for TTEAP expenses as required by A.R.S §§28-1632 and 28-1633. This fee is in addition to the \$9.00 charge collected by the courts to recover the costs assessed by the Department of Revenue for processing each TIP claim. This fee covers the costs associated with web and telephone based payments and noticing for delinquent cases without referral to ACS for special collections.

Special Collections Fee**19% of the Total Outstanding Debt**

This fee applies to all cases submitted to ACS for special collections by courts that are participating in the FARE Program. This fee is charged administratively to cover the costs associated with FARE special collection actions to collect outstanding debt.

This fee covers special collection costs, as appropriate, including case and financial data entry, system integration and data transfer, account balance verification by court personnel, production and mailing of notices, skip tracing notices returned as undeliverable and notifying the court when a good address is obtained, web and telephone based payment services, personal telephone contact, and credit bureau reporting.

APPENDIX B
REVIEW OF LOCAL COURT COLLECTION PLANS

Administrative Order No. 2003-79 specified:

“Any court planning to expand its existing collection services independent of or separate from the FARE Program herein described, shall submit any such proposed plan to the Arizona Judicial Council for approval before proceeding with development and implementation.” The Order further provided that the Arizona Judicial Council may delegate this review to the Administrative Director of the Courts, according to established criteria.

On October 15, 2003, the Arizona Judicial Council authorized the Administrative Director of the Courts to review and approve local court collection plans according to the following criteria:

1. Existing collection program (if any) within the court vs. expansion.
2. Consistency of the local court plan with the goals of FARE.
3. Replication of the current services offered by FARE.
4. Replication of future services planned for FARE.
5. Ability of FARE to timely provide the needed services.
6. Time line for implementation of the local court plan.
7. Impact on the subsequent transition of the court to full FARE.
8. Resource investment (personnel and financial) to implement the local court program.
9. Efficiency of resources of local court plan.
10. Opportunity for FARE vendor to participate in competitive model with other vendors.
11. Cost of collection - local court plan compared to FARE.