



(512) 423-1797

www.higdoncomptonagency.com

Funds Disbursement/Funds Control Programs

Funds disbursement services, often called “funds control,” “funds administration,” “estate fiduciary services” are services whereby a trustee, guardian, executor or administrator’s accounts payable functions are outsourced to a third party escrow or disbursement service. Funds Disbursement Services Agreement is representative of disbursement methodology used by most sureties who require funds control as an underwriting requirement for the issuance of bonds.

In essence, the estate assets otherwise directly controlled by the court appointed fiduciary, are managed by a professional service provider who verifies costs and fees and makes direct disbursements to payees subject to court approval. Such services have proven to be a credit enhancement tool, an evaluation tool for fiduciaries with limited experience, and an underwriting tool that allows a surety to extend or expand surety credit in certain circumstances. Funds disbursement services may be used in any situation where it is important that funds remain dedicated to the estate from which they are derived.

Funds disbursement services are priced on a dollar volume, bond penalty, length of time, and the complexity of the controls in place. An average of 1% of the bond amount on smaller projects is common, although the fees typically break as the estate increases.

While dual signature processes may send a message to vendors that a surety and their agent lacks confidence in the fiduciary, many funds disbursement processes are performed in a manner that third parties are unaware that it is being used. The checks from the disbursing company or escrow service typically has the estate name imprinted on the check.

Most fiduciaries would prefer not to have their funds controlled and disbursed in this fashion. They fear that there will be disagreements over who should be paid, whether the process will slow down payment, and certain amount of duplication of accounting functions. To the fiduciary who would otherwise not qualify for bonds or indemnified by another party, however, it is a process that creates opportunities where none may have existed before.

With increasing frequency, sureties and agencies are requiring funds to be disbursed through escrow, either to guard against default. Even those who require bonds sometimes prefer the comfort of knowing that estate funds will positively remain dedicated to the estate and not used elsewhere without obligee approval.

How Funds Disbursement works in court proceedings

The agency or escrow service for surety will furnish Funds Disbursement Agreement and IRS Form W-9. These documents are to be completed, signed and returned. For Administration of Estates the Estate Tax ID number is required. For guardianships, the ward's social security number will be used for tax reporting. Once the agency receives completed and signed documents it will proceed with opening pre-arranged fiduciary estate account.

When fiduciary account is open information including style of account, bank name, address account and routing numbers will be forwarded to fiduciary at which time the agency will execute bond and oath for filing with the court. Upon receipt of Letters of Administration/Guardianship issued by clerk of the court, it is at this point where estate funds are transferred into estate account.

Following initial deposit, each subsequent month the fiduciary will be forwarded bank statement for accounting purposes. During the 12 month accounting term if any disbursements are required a Court Order Approving Expenses must be submitted to escrow service or agency prior to issuance of check.

At the conclusion accounting term, the escrow service or agency is provided Verification of Funds Letter to be completed and signed by depository holding funds. This document along with copies of checks issued during the term will be forwarded for Annual/Final Accounting.