



STATE OF ILLINOIS
EXECUTIVE OFFICE OF THE GOVERNOR
GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET
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TO: State Agency Directors, Chief Financial Officers and Grantees

FROM: Jennifer Butler and Carol Kraus
Grant Accountability and Transparency Unit

SUBJECT: Grantee Compliance Enforcement System

DATE: April 5, 2018

The Grant Accountability and Transparency Act, 30 ILCS 708/1 *et seq.*, (“GATA”), strives to ensure quality grant programs by limiting fraud, waste, abuse and mismanagement. GATA (30 ILCS 708/60(a)(8)) requires the Governor’s Office of Management and Budget (“GOMB”) to maintain a “list of individuals and entities that are ineligible, either temporarily or permanently, to receive an award of grant funds from the State.” January 1, 2017 the statewide Grantee Compliance Enforcement System (GCES) was implemented based on established federal law and supporting guidance, including the federal Do Not Pay System, OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement) (2 CFR 180) and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200.338). (The Illinois Stop Payment List was initially implemented in December 2015.)

Through state grantmaking agency, grantee community and Grant Accountability and Transparency Unit (GATU) collaboration, GCES has been updated. This notice releases the revised policy and highlights the updates including:

- The establishment to two stop payment statuses – temporary and permanent stop pay status. The severity of the non-compliance issue determines which status is applicable.
- Emphasis that grantees on Stop Payment Status are not eligible for interest due through the Prompt Payment Act. Prompt pay interest will not accrue while an entity is in Stop Payment Status.
- The establishment of automated notices to state agencies when the agency initiates a payment transaction with the IOC after a Stop Payment Status has been assigned.
- The establishment of a payment justification protocol to support required payments to entities on Stop Payment Status.

Please direct any policy-related questions to your state agency CAO or a GATU representative. Thank you for your cooperation.

STATE OF ILLINOIS GRANT MANAGEMENT POLICY

GRANTEE COMPLIANCE ENFORCEMENT SYSTEM

3/5/18

Grantees and applicants are subject to Section 25(6)(G) through (I) of The Grant Accountability and Transparency Act (GATA; PA 98-0706), which restricts issuing grants, subgrants and Cooperative Agreements to parties that are debarred, suspended or otherwise deemed ineligible for participation in State grant programs or activities. GATA is utilizing a statewide Grantee Compliance Enforcement System (GCES) to drive compliance with grant requirements.

The GCES applies to all grants that are subject to Uniform Guidance and GATA. (All grants are assumed subject to Uniform Guidance and GATA unless an exception or exemption was authorized by the Grant Accountability and Transparency Unit (GATU) on behalf of the Governor's Compliance Office.) State agencies have discretion to apply the System to other grants not subject to federal Uniform Guidance or GATA.

GATA requires that GOMB maintain a list "that contains the names of those individuals and entities that are ineligible, either temporarily or permanently, to receive an award of grant funds from the State." The list, termed the Illinois Stop Payment List, is a component of the GCES. The Illinois Stop Payment List is based on the federal Do Not Pay System and 2 CFR 180 - OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement). 2 CFR 200.338(a) also provides federal guidance on enforcement of the stop pay framework.

The Illinois Stop Payment List, initially introduced in December 2015, established an internal central repository for cross-agency information sharing to improve risk assessment processes and enhance fiscal management transparency. The Illinois Stop Payment List documents all grantees on Stop Payment Status. A Stop Payment Status can be temporary or permanent. The GCES is the statewide, uniform framework for administering the Illinois Stop Payment List. 2018 enhancements to the GCES include electronic notices to state agencies when the agency has initiated payment through the Illinois Comptroller to an entity on Stop Payment Status.

The Illinois Stop Payment List is dynamic and provides a snapshot of grantees currently out of compliance with select grant management requirements. The centralized list elevates instances of non-compliance to promote timely resolution and safeguard the State's resources.

The GCES policy is presented below in a question / answer format.

I. What is the Grantee Compliance Enforcement System (GCES)?

The Grantee Compliance Enforcement System (GCES) outlines a statewide framework for state agencies to manage occurrences of non-compliance with grant requirements. Under this System, occurrences of grantee non-compliance will be consistently processed among state agencies. Under the terms of the System, the severity of the non-compliance issue dictates the enforcement action required by the state agency.

II. Are all non-compliance issues equal?

No. The severity of the non-compliance issue determines if the entity is placed on temporary or permanent Stop Payment Status. GATA legislation at 30 ILCS 708/60(a)(8) establishes the temporary and permanent classifications. A temporary Stop Payment Status can be remediated.

There is no remediation for a permanent Stop Payment Status. Non-compliance issues are classified as follows:

A. *Temporary* Stop Payment Status:

1. Late performance or expense reporting;
2. Failure to clear fiscal/administrative monitoring issue(s);
3. Failure to submit a timely audit report;
4. Failure to respond to audit report or monitoring review corrective action for deficiencies and material weaknesses;
5. Failure to submit a required refund payment or a payment missing from the payment plan; or
6. Factually based discretionary issue documented by the leadership within the awarding agency.

B. *Permanent* Stop Payment Status

1. Facts documented by the applicable state agency including but not limited to:
 - a. Conviction of or civil judgment for commission of fraud or a criminal offense, violation of federal or state antitrust statutes, commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, tax evasion, or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects present responsibility.
 - b. Violation of grant terms or a transaction so serious as to affect the integrity of the program such as a willful failure to perform in accordance with grant terms, a history of failure to perform or of unsatisfactory performance, or a willful violation of statutory or regulatory provisions or requirements application to a grant.
 - c. Any other cause so serious or compelling in nature that it affects present responsibilities.
2. Fraud documented by the Office of the Executive Inspector General and/or other governmental entity's investigation.

III. Is there a process before placing a grantee on the Illinois Stop Payment List?

Yes, procedures at the state agency level are required before Stop Pay Status will be invoked. The state agency must notify the grantee in writing of the non-compliance issue. (Refer to Section II for non-compliance issues associated with Stop Payment Status.) The communication should state that the grantee and its parent organization, if applicable, will be placed on the Illinois Stop Payment List if adequate action by the grantee, including raising any objections, is not taken within 15 calendar days.

The following protocol will apply under a parent / child relationship:

1. If the parent is placed on temporary or permanent Stop Payment Status, all children will be placed on the same Stop Payment Status.
2. If the child is placed on temporary Stop Payment Status, the parent will be placed on temporary Stop Payment Status as well because the parent is accountable for compliance oversight of the child.
3. If the child is placed on permanent Stop Payment Status, the parent will be notified, but will not be placed on permanent Stop Payment Status unless the parent is determined to be a party to the non-compliance issue leading to permanent Stop Payment Status of the child.

Oversight requirements may be imposed to enforce accountability between other parent / child relationships.

4. All children will be treated independently. A child placed on Stop Payment Status (Child A) has no impact on other children unless the other child (Child B) is determined to be a party to the non-compliance issue leading to the Stop Payment Status of Child A.

If applicable, the parent of the entity shall be copied on the correspondence. The written correspondence must specify:

1. Grantee name of record and FEIN;
2. Applicable grant award name and number;
3. Non-compliance issue(s) as cited in Section III with detailed facts to support the issue(s);
4. How the grantee can correct the non-compliance issue, if applicable;
5. An opportunity for dialog or written objections regarding the non-compliance issue;
6. Contact information to inquire and/or coordinate corrective action; and
7. That state agencies cannot execute or modify grants to entities on the Illinois Stop Payment List. Payments to entities on the Illinois Stop Payment List will be subject to additional authorization.

(State agencies shall have discretion to determine the medium of written correspondence including email distribution, certified mail or P.O. delivery.)

If no adequate action is taken by the grantee within 15 calendar days, the state agency shall place the grantee and the grantee's parent, if applicable, on the Illinois Stop Payment List. A written notice in the form of a Final Administrative Determination must be provided to the grantee and the grantee's parent, if applicable, alerting that the Stop Pay Status has been invoked effective _____ (date).

If the state agency receives a timely written objection from the grantee, the agency shall endeavor to review the objection within 15 calendar days to determine whether the grantee has complied with the requirement(s) at issue. After the agency's review, it will notify the grantee stating either: (a) the grantee has complied and that it will not be placed on the Illinois Stop Payment List on the basis of the non-compliance issue, or (b) that the grantee is not in compliance and will be added to the Illinois Stop Payment List. If the non-compliance issue is for a delinquent report, following the resolution of an objection in favor of the state agency, the grantee will be added to the Illinois Stop Payment List 30 calendar days after the original report due date, the date specified by the State agency's JCAR Rules, or within ten (10) calendar days if more than 30 calendar days has passed since the original report due date.

IV. What non-compliance issues will result in a Stop Payment Status?

Effective 1/1/17, the following Stop Payment framework is implemented to establish uniformity to Stop Pay Status. Non-compliance in the following areas will result in an entity being placed on the Illinois Stop Payment List:

- A. Delinquent reporting, based on the terms of the Grant Agreement, will result in enforcement of the state agency protocol. The Grant Funds Recovery Act (30 ILCS 705/4.1) states: "Grantor agencies may withhold or suspend the distribution of grant funds for failure to file

required reports.” State agencies must have an internal protocol for managing grantee submittal of required financial and performance reports.

1. Internal state agency protocol shall allow for reporting extensions by the awarding agency due to *grantee specified extenuating circumstances*.
 - a. Reporting extensions must be justified in writing by the awarding agency. Electronic communication is permitted.
 - b. A report due date may only be extended one time per reporting period.
 2. The awarding state agency shall withhold payments to the entity if a report is more than 15 calendar days past the due date or the date specified by the state agency’s JCAR Rules (including approved extension). The grantee notification (required in Section II) shall state that the agency’s payments to the entity will be withheld until the report is received, or any written objection is satisfactorily resolved, and that, if the report is more than 30 calendar days delinquent, without any reasonable written objection by the grantee, the entity will be placed on the Illinois Stop Payment List.
 3. If the report is not submitted within 30 calendar days of the due date or the date specified by the state agency’s JCAR Rules (including approved extension), and the agency has not received a written objection from the grantee, the awarding state agency shall report the grantee on the temporary Illinois Stop Payment List.
- B. The following additional non-compliance incidents can be resolved and will result in the grantee being placed on the temporary Illinois Stop Payment List:
1. Failure to clear fiscal / administrative monitoring issues;
 2. Failure to submit an audit report;
 3. Failure to respond to an outstanding audit report or monitoring review correction action for deficiencies and material weaknesses including payment of questioned costs; or
 4. Failure to submit a required refund payment (as required by the Grant Funds Recovery Act) or missing a payment in the payment plan;
 5. Factually-based discretionary issues documented by the Agency Director, General Counsel, Agency’s Office of the Inspector General, Chief Financial Officer, Chief of Staff or Chief Operating Officer.
- C. An entity will be permanently placed on the Stop Payment List pursuant to Section II. B. A permanent Stop Payment Status requires a preponderance of the evidence as defined by 2 CFR 180.990.

Entities on permanent Stop Payment Status are not “qualified” to do business in Illinois. State agencies cannot do business with entities on the SAM.gov Exclusion List or with entities on permanent Stop Payment Status.

- D. As allowed under the Grant Funds Recovery Act (30 ILCS 705) and in accordance with the Illinois State Collection Act of 1986 (30 ILCS 2010/5) and Accounting Bulletin 181, all debts pursuant to Section IV, Scenario B.4. that exceed \$250 and are more than 90 days past due (including approved extensions) may be referred for inclusion in the Comptroller’s Offset System, subject to any permitted exceptions or required exemptions pursuant to Federal or State law. All requirements of 30 ILCS 2010/5 shall be applied and all required processes for inclusion onto the Comptroller Offset System shall be followed. State

agencies also may offset payments initiated to its own debtors without referral to the Comptroller Offset System (30 ILCS 210/5(d)).

V. How do agencies report Stop Payment Status?

All state agencies are required to report grantee non-compliance through the Illinois Stop Payment System. When a non-compliance infraction occurs, the State agency must update the Illinois Stop Payment List. This can be done by establishing an automated data transfer to GOMB or by direct data entry into the GATA Implementation website. Automated data transfers are strongly recommended to maintain data integrity. The following information is required for the Illinois Stop Payment List:

1. Grantee's FEIN - 9 digit Federal Employer Identification Number, or Federal Tax ID Number;
2. Grantee's DUNS – Dun and Bradstreet Number;
3. Grantee's Name;
4. Stop Pay Date – date the stop payment was initiated;
5. Permanent Status (Y/N) – as defined in Section II.;
6. Stop Pay Reason – cite the applicable infraction; and
7. Agency Contact – contact name, phone number and email address of agency personnel with knowledge of the non-compliance issue

VI. What impact does the Illinois Stop Payment List have on grant agreements?

State agencies cannot do business with entities on the SAM.gov Exclusion List or entities on permanent Stop Payment Status. Refer to Section IV.C.

State agencies cannot execute or modify a grant to increase funding if an entity is temporarily on the Illinois Stop Payment List unless extenuating circumstances (e.g., court order or consent decree) dictate or the grant modification is approved by the agency and would allow the grantee to become compliant.

The Illinois Stop Payment List will be dynamic. It is incumbent for State agencies to verify that a grantee is not on the Illinois Stop Payment List before entering into or modifying grant agreements. This can be done by verifying the GATA Implementation website or through an electronic verification service available upon request.

VII. How will payments be impacted by the Illinois Stop Payment List?

Grantees on Stop Payment Status are not eligible for interest they might be due through the Prompt Payment Act. Prompt pay interest will not accrue while an entity is in Stop Payment Status.

Automated notices alert state agencies when a payment transaction has been initiated with the IOC after a Stop Payment Status has been assigned. The Stop Pay Status should be enforced by state agencies; however, mandated payment terms (e.g., court order, consent decree and federally mandated funding) may necessitate the payment to an entity on temporary Stop Payment Status. State agencies will be required to report payment justification within the Stop Payment System if payment will be made to an entity on Stop Pay Status.

A nightly data feed will compare grantee's FEIN number on the Illinois Stop Payment List to the Illinois Comptroller's Data Warehouse to determine if a payment transaction to a GATA registered entity has occurred after the stop pay date. If so, the agency that initiated the transaction will be notified via email of the Stop Pay status. The email will include a link to the Illinois Stop Payment List record.

Based on the notice, the state agency must decide how to proceed with a pending payment to an entity on temporary Stop Payment Status:

- If the state agency will withhold the flagged payment, the agency will follow applicable internal procedures with the IOC to cancel the payment.
- If the state agency must allow the payment, the agency will complete the Payment Justification field of the Illinois Stop Payment System to document why the Stop Payment Status is being over-ridden.

The Stop Payment over-ride can be valid for one payment or a period of time. If the grant mandates periodic funding and payment cannot be withheld, the longer-term over-ride would be appropriate. A Stop Payment over-ride cannot exceed the duration of the fiscal year (including the lapse period) in which the entity was placed on Stop Payment status. The awarding agency may renew a Stop Payment over-ride in the following fiscal year if grant funding continues and circumstances require a payment.

VIII. Can an entity on Stop Payment Status resolve their compliance issue?

Entities on permanent Stop Payment Status cannot remediate. State agencies cannot do business with these entities. Placement on permanent Stop Payment Status is indefinite. Refer to Section IV.C.

All temporary non-compliance issues can be resolved through the applicable state agency. Refer to Section II A. Without exception, outstanding debt must be repaid or a timely payment under a repayment plan must be received to remove a temporary Stop Payment Status. When the compliance issue is resolved, the grantee is removed from the Illinois Stop Payment List. Please note:

- Only the agency that assigned the temporary Stop Pay Status can remove Stop Pay Status.
- The entity on Stop Payment status must contact the state agency that issued the temporary Stop Pay Status to resolve the non-compliance.

When the non-compliance issue is resolved, the state agency should remove the entity from the Illinois Stop Payment List using the automated data transfer or by manually removing the temporary Stop Pay Status from the entity's stop payment record.

IX. How long does the Stop Payment Status last?

Placement on permanent Stop Payment Status is indefinite. Refer to Section IV.C.

The entity will stay on temporary Stop Pay Status and on the Illinois Stop Payment List until the cited non-compliance issue is resolved. (Per Section VIII, when the entity becomes compliant, the entity is removed from the temporary Stop Payment Status.)