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Comptroller
State of Illinois

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Springfield, Illinois 62706
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ACCOUNTING BULLETIN NO. 46

February 6, 1984

TO: Agency Heads and Chief Fiscal
Officers of All State Agencies

SUBJECT: Illinois Grant Funds Recovery Act

The Illinois Grant Funds Recovery Act, hereafter the "Act" (Public Act 83-640), effective January 1, 1984) establishes certain new requirements for the disbursement and recovery of grant funds. A copy of the Act is attached for your convenience.

The Act: 1) defines "grant funds"; 2) provides that grant funds may be only disbursed pursuant to a written grant agreement (unless such funds are disbursed pursuant to a statutory formula for distribution); 3) sets forth minimum elements for a written grant agreement; and 4) establishes a time limit on the expenditure of grant funds.

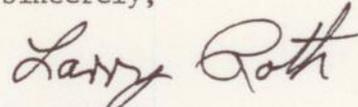
The Act does not establish any new filing requirements for these grant agreements. Pursuant to Section 15 of the State Comptroller Act, contractual obligations which exceed \$2,500 arising out of these written grant agreements must be filed with the Office of the Comptroller within 15 days of execution. In addition, an obligation must be established for such agreements, in accordance with Accounting Bulletin No. 26.

The Act requires the grantor agency to take affirmative and timely action to recover all misspent or improperly held grant funds. Recovery of misspent or improperly held grant funds is authorized through offsets of amounts owing to the Grantee. However, formal procedures for recovery must be complied with. All requests for the recovery of grant funds initiated pursuant to Section 10.05 of the State Comptroller Act (Ill. Rev. Stat. 1981, ch. 15, par. 210.05) should indicate prior compliance with the formal recovery procedures outlined in Section 8 of the Act. This may be accomplished by stating in the Involuntary Withholding Request (Form C-33) that the requirements of Section 8 of the Illinois Grant Recovery Act have been met.

February 6, 1984

If you have any questions concerning this Bulletin, please contact Joe DiRocco (for contract filing and obligation questions) at 782-3608 or Wiley Mays (for questions relating to offsets) at 782-3426.

Sincerely,

A handwritten signature in cursive script that reads "Larry Roth". The signature is written in dark ink and is positioned above the typed name.

Larry Roth
Director, State Accounting

attachment

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AN ACT relating to the use and disbursement of grant funds dispensed by agencies of State government, and to provide for the recovery of misspent or improperly held grant funds.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short Title. This Act may be cited as the "Illinois Grant Funds Recovery Act".

Section 2. Definitions. The following terms when used in this Act shall have the meanings ascribed to them in this Section:

(a) "Grantor agency" is any agency of State government which dispenses grant funds.

(b) "Grant funds" are any public funds dispensed by a grantor agency to any person or entity for obligation, expenditure, or use by that person or entity for a specific purpose or purposes. Funds disbursed by the State Comptroller pursuant to an appropriation made by the General Assembly to a named entity or person are not grant funds for purposes of this Act.

Neither the method by which funds are dispensed whether by contract, agreement, grant subsidy, letter of credit, or any other method nor the purpose for which the funds are used can change the character of funds which otherwise would be considered grant funds as defined in this Section.

(c) "Grantee" means the person or entity which may use grant funds.

Section 3. Application. Except as otherwise provided by this Section, all grant funds are subject to the provisions of this Act. This Act does not empower any grantor agency to make grants.

This Act does not apply to grant funds that are granted without limitation or condition imposed by law, other than the general limitation that such funds be used for public purposes.

This Act does not apply to funds disbursed pursuant to a statutory formula for distribution.

Section 4. Grant Agreement Requirement. Grant funds may not be used except pursuant to a written grant agreement, and any disbursement of grant funds without a grant agreement is void. At a minimum, a grant agreement must:

(a) describe the purpose of the grant and be signed by the grantor agency making the grant and all grantees of the grant;

(b) specify how payments shall be made, what constitutes permissible expenditure of the grant funds, and the financial controls applicable to the grant;

(c) specify the period of time for which the grant is valid and, subject to the limitation of Section 5, the period of time during which grant funds may be expended by the grantee; and

(d) contain a provision that all funds remaining at the end of the grant agreement or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee shall be returned to the State within 45 days.

Section 5. Time Limit on Expenditure of Grant Funds. Subject to the restriction of Section 35 of "An Act in relation to State finance", approved June 10, 1919, as amended, no grant funds may be made available for expenditure by a grantee for a period longer than 2 years except where such grant funds are disbursed in reimbursement of costs previously incurred by the grantee. Any grant funds not expended or legally obligated by the end of the grant agreement, or during the time limitation to grant fund

expenditures set forth in this Section, must be returned to the grantor agency within 45 days, if the funds are not already on deposit with the grantor agency or the State Treasurer. Such returned funds shall be deposited into the fund from which the original grant disbursement to the grantee was made.

Section 6. Recovery of Grant Funds. Any grant funds which have been misspent or are being improperly held are subject to recovery by the grantor agency which made the grant or alternatively by the Attorney General. The grantor agency making the grant shall take affirmative and timely action to recover all misspent or improperly held grant funds. In order to effectuate the recovery of such grant funds, the grantor agency making the grant is authorized to use any one or a combination of the following:

(a) offset against existing grants of, or future grants to be made by, the grantor agency making the recovery;

(b) authorize the offset from existing grants or grants to be made by other grantor agencies;

(c) authorize the Comptroller to offset any payment from any funds administered by the Comptroller for payment to the grantee, including, but not limited to, distributions of appropriated funds and payment of refunds;

(d) initiate any debt collection method authorized by law to any private person; or

(e) remove the grantee from any of the grantor agency's programs and forbid the grantee's participation in any such future grant programs for a period not to exceed 2 years.

Section 7. Informal Hearing. Whenever a grantor agency believes that grant funds are subject to recovery, the grantor agency shall provide the grantee the opportunity for at least one informal hearing to determine the facts and issues and to resolve any conflicts as amicably as possible before taking any formal recovery actions.

Section 3. Formal Procedures for Recovery. (a) If a grantor agency determines that certain grant funds are to be recovered, then, prior to taking any action to recover the grant funds, the grantor agency shall provide the grantee of the funds a written notice of the intended recovery. This notice shall identify the funds and the amount to be recovered and the specific facts which permit recovery.

(b) A grantee shall have 35 days from the receipt of the notice required in paragraph (a) of this Section to request a hearing to show why recovery is not justified or proper.

(c) If a grantee requests a hearing pursuant to paragraph (b) of this Section, then:

(1) the grantor agency shall hold a hearing at which the grantee (or his representative) may present evidence and witnesses to show why recovery should not be permitted; and

(2) after the conclusion of the hearing, the grantor agency shall issue a written final recovery order and send a copy of the order to the grantee.

(d) A grantee may seek judicial review of any final recovery order, pursuant to the provisions of the Administrative Review Law.

(e) If a grantee requests a hearing pursuant to paragraph (b) of this Section, then the grantor agency may not take any action of recovery until at least 35 days after the grantor agency has issued a final recovery order pursuant to the requirements of paragraph (c) of this Section.

If a grantee does not request a hearing as permitted in paragraph (b) of this Section, then the grantor agency may proceed with recovery of the grant funds identified in the notice issued pursuant to the requirements of paragraph (a) of this Section, at any time after the expiration of the 35-day request period established in paragraph (b) of this Section.

(f) Any notice or mailing required or permitted by this Section shall be deemed received 5 days after the notice or mailing is deposited in the United States mail, properly addressed with the grantee's current business address and with sufficient U.S. postage affixed.

Section 9. Recovery of Grant Funds by Attorney General. The Attorney General, on his own volition, may act to recover any grant funds which have been misapplied or are being improperly held and, when doing so, has all the powers of collection established in this Act in addition to any other powers authorized by law or the Constitution.

Section 10. Interest on Grant Funds. All interest earned on grant funds held by a grantee shall become part of the grant principal when earned and be treated accordingly for all purposes, unless the grant agreement provides otherwise.

The grantor agency may provide in the grant agreement that interest earned on grant funds may be retained by the grantee when the cost of accounting for the interest or allocating the interest to principal is significant in terms of the amount of interest to be received.

However, any interest earned on grant funds held after the expiration of the period of time specified in Section 4 shall become a part of the grant principal and shall be so treated for all purposes.

Section 11. Accounting Requirements. Each grantee is under an affirmative duty to keep proper, complete and accurate accounting records of all grant funds the grantee administers.

Section 12. Subgrant of Grant Funds. If any person or entity that obtains grant funds dispenses any part or all of those funds to another person or entity for obligation, expenditure or use by that other person or entity for a specific purpose or purposes, then those funds so dispensed shall be treated as grant funds.

APPROVED: September 23, 1983

EFFECTIVE: January 1, 1984