

**APPROVED
JUNE 9, 2020**

Item #G-3
June 9, 2020

**ADOPTED AMENDMENTS TO RULE:
GENERAL GRANT PROGRAMS**

Submitted for: Action.

Summary: This item seeks final adoption of amendments for the General Grant Programs. Proposed amendments were approved by the Board at the December 2019 meeting.

In accordance with the Illinois Administrative Procedures Act [5 ILCS 100], the proposed amendments were published in the *Illinois Register* on March 13, 2020, which initiated the 45-day public notice period. No comments were received during this time. The rulemaking is now ready for the Illinois Board of Higher Education adoption, subject to no objection by the Joint Committee on Administrative Rules.

Action Requested: That the Illinois Board of Higher Education adopt the amendments for General Grant Program (23 Ill. Adm. Code 1001) as contained in this item.

STATE OF ILLINOIS
BOARD OF HIGHER EDUCATION

**AMENDMENTS TO RULE:
GENERAL GRANT PROGRAMS**

The General Grant Programs rule was promulgated in 1999 to address the increasingly common act of the General Assembly to make appropriations to the Illinois Board of Higher Education (IBHE) for the purpose of making grants to named entities or classes of entities. Often, the appropriations were independent of any existing authorization for IBHE to administer the grants. It is the purpose of the rule to establish written procedures for the administration and allocation of such appropriations, to give notice to potential recipients of these procedures, and to require accountability for the expenditure of these funds.

No substantive modifications are recommended to the amendments previously approved by the Board in December 2019. The amendments were promulgated in response to the adoption of rules for the Grants Accountability and Transparency Act (GATA). The amendments incorporate the requirements of GATA which include: adding new terminology; referencing the GATA rules for recipient qualification and use of uniform grant agreements; removing some of the requirements that are incorporated into the new uniform grant agreements; and referencing GATA rules on interest earned, audit requirements, and post-award requirements. The amendments retain the purpose of the rule and incorporate the new requirements.

In accordance with the Illinois Administrative Procedures Act [5 ILCS 100], the proposed amendments were published in the *Illinois Register* on March 13, 2020, which initiated the 45-day public notice period. No comments were received during this time. The rulemaking is now ready for IBHE adoption, subject to no objection by the members of the Joint Committee on Administrative Rules (JCAR). If JCAR has no objection, the adopted rules will be filed with the Secretary of State and become effective immediately. However, if there are objections or changes proposed by JCAR, except for technical corrections, the rules will be brought before the Board at the next meeting for re-consideration.

Attachment 1 is the current rule with amendments in redline, deletions are in strikeout and additions underlined. The rule with amendments is shown in Attachment 2, the clean version.

Staff Recommendation

Staff recommends the adoption of the following resolution:

The Illinois Board of Higher Education hereby adopts the amendments for General Grant Programs (23 Ill. Adm. Code 1001) as detailed in the attached document, pending no objection by the Joint Committee on Administrative Rules (JCAR). If JCAR has an objection or proposed substantive changes to the rules adopted by IBHE, the IBHE shall re-consider this resolution.

ATTACHMENT 1: AMENDMENTS IN REDLINE

**TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION**

**PART 1001
GENERAL GRANT PROGRAMS**

Section	
1001.10	Purpose
1001.20	Definitions
1001.30	Grant Amounts and Allocations
1001.40	Grant Requirements
1001.50	<u>Post-Award</u> Audit Requirements and Guidelines

AUTHORITY: Implementing and authorized by Sections 9.05, 9.09 and 9.17 of the Board of Higher Education Act [110 ILCS 205/9.05, 9.09 and 9.17].

SOURCE: Emergency Rules adopted at 23 Ill. Reg. 11982, effective September 15, 1999, for a maximum of 150 days; emergency expired February 11, 2000; adopted at 24 Ill. Reg. 3354, effective February 14, 2000; adopted at 44 Ill. Reg. _____, effective _____.

Section 1001.10 Purpose

This Part provides for administration of, and is applicable only to, general grants from the Board of Higher Education when the Board receives an appropriation or other funds for which there is no specific authorizing statute and only a general purpose is included in the appropriation.

Section 1001.20 Definitions

"Board" means the Illinois Board of Higher Education.

"Designated Grant" means a grant funded by an appropriation or other source which appropriation or other source specifies the recipient of the grant and the purpose of the grant.

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708].
GATA rules are cross-referenced in this Part.

"GATA Rule" means 44 Ill. Adm. Code 7000.

"GATU" means the Grant Accountability and Transparency Unit within the
Illinois Governor's Office of Management and Budget.

"Grant Period" or "Period of Performance" means the time during which the
awardee may incur new obligations to carry out the work authorized. The Board
will include the start and end dates in the grant agreement. ~~means the period
ending two years after the date that either the Board or the recipient signs a grant
agreement, whichever is later.~~

"Non-Designated Grant" means a grant funded by an appropriation or other source ~~that which appropriation or other source~~ specifies the recipient of the grant but does not specify the purpose of the grant.

"Other Sources of Funding" means those grant funds provided through entities outside of State and ~~federal government national government~~ that are not appropriated (e.g., interagency agreement, foundations, associations, businesses or charities) and are to be allocated to other recipients.

"Recipient" means:

_____ the institution of higher education or other entity, public or private, ~~that which institution of higher education or other entity, public or private,~~ is designated by an appropriation or other source to receive a grant; ~~or~~ means

_____ a class of institutions that is designated by an appropriation or other source to receive a grant.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1001.30 Grant Amounts and Allocations

Grant amounts and allocations shall be made as provided in this Section ~~follows~~:

- a) ~~When~~ Where the appropriation or other funding source specifies a specific amount for a recipient or recipients, the grant amount shall be ~~the~~ that sum specified by the appropriation or other funding source.
- b) ~~When~~ Where the appropriation appears to leave discretion in the allocation of grant funds to the Board, the Board ~~will~~ shall determine the intent of the Governor and the General Assembly in passing the legislation and will allocate grants accordingly. If that intent cannot be determined, the Board ~~will~~ shall determine eligibility for the grants in accordance with ~~the~~ their stated purpose of the grant as specified by the appropriation or other funding source. ~~The Board will and shall~~ notify all potentially eligible recipients prior to making grants.
- c) Determination of Grant Amount
 - 1) In those cases ~~in which~~ where the appropriation or other funding source specifies a specific amount for a class of recipients, the grant amounts shall be determined by the method specified by the appropriation or other funding source. ~~or~~
 - 2) ~~If~~ if no method is specified, ~~then~~ the grant funds shall be allocated equally among all eligible recipients in the class. ~~provided that such~~
 - 3) All recipients shall sign a Grant Agreement ~~grant agreement, if required.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1001.40 Grant Requirements

- a) Board staff shall verify that each recipient is registered with GATU, has completed a prequalification process, and has been determined “qualified” by GATU (see GATA Rule Section 7000.70). ~~A recipient of a non-designated grant shall not be required to execute a grant agreement in order to receive grant funds.~~
- b) Grant funds may not be expended except pursuant to a Grant Agreement. Disbursement of grant funds without a Grant Agreement is prohibited.
- c) The Board shall enter into an agreement with a qualified recipient using the Uniform Grant Agreement provided by GATU (see GATA Rule Section 7000.370) or the Uniform Intergovernmental Grant Agreement (see GATA Rule Section 7000.300). The intergovernmental agreement should be used when issuing a grant to another governmental entity, such as a State university or State agency.
- d) The Grant Agreement must be executed by the authorized representative of the recipient within 60 days after receipt of the proposed Grant Agreement from the Board. ~~A recipient of a designated grant must execute a grant agreement with the Board that:~~
 - 1) ~~Must be executed by the authorized chief executive officer of the recipient within 60 days after receipt of the proposed grant agreement from the Board;~~
 - 2) ~~Must contain a representation by the recipient that it will expend all grant funds in accordance with the requirements of the appropriation, the funding source and the grant agreement;~~
 - 3) ~~Must contain a provision that the recipient will refund any grant funds that the recipient was not eligible to receive or that were not spent in accordance with this Part;~~
 - 4) ~~Must contain a provision that the recipient will expend and disburse all grant funds, except for the audit fee, within the grant period;~~
 - 5) ~~Must contain a provision that the recipient will contract with an external auditor who is licensed as a public accountant by the Illinois Department of Professional Regulation to conduct an audit of grant expenditures.~~
- ee) Designated grant funds may not be used to reimburse a recipient for obligations or expenditures prior to the date of the Grant Agreement~~grant agreement~~, except that otherwise eligible expenditures that occur after the effective date of any appropriation may be reimbursed from grant funds.
- fd) Designated grant funds may be distributed by the Board to a recipient prior to the expenditure or obligation by the recipient.
- ge) Interest earned by the recipient is subject to the Parameters Regarding Interest Earned stipulated by GATU (see GATA Rule Section 7000.120). ~~For grants of~~

~~less than \$250,000, interest earned by the recipient may be retained by the recipient since the cost of accounting for the interest or allocating the interest to principal is deemed significant in terms of the amount of interest to be received. For grants of \$250,000 and more, interest earned by the recipient must be accounted for and interest earned shall become a part of the grant principal and used only for those purposes authorized by the grant agreement. For grants over \$250,000, the Board may pay out such grants in installments, with each installment taking into account the purpose of the grant and the rate of anticipated expenditure of the grant funds by the recipient.~~

- ~~f) For designated grants, grant agreements shall comply with the Grant Funds Recovery Act [30 ILCS 705].~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1001.50 Post-Award Audit Requirements and Guidelines

- a) Recipients are subject to the Auditing Standards stipulated by GATU (see GATA Rule Section 7000.90). Within 120 days after the end of the grant period, the recipient shall submit a schedule of budgeted and actual grant expenditures audited by an external auditor who is licensed as a public accountant by the Illinois Department of Professional Regulation. The audit shall include an opinion by the auditor on the schedule of budgeted and actual grant expenditures and assurance that grant funds were expended in conformance with the purpose of the grant as included in the appropriation, or other funding source, and the grant agreement. Any funds not so expended shall be refunded to the Board. Any recipient that fails to submit an audit shall refund the entire grant amount to the Board.
- b) The recipient shall not deviate from the budget, project scope, or objectives stated in the Grant Agreement except with mutual agreement of the Board and the recipient. (See GATA Rule Section 7000.370(b)) The Board shall review a request and notify the recipient within 30 calendar days after receipt of a request. Recipients of \$25,000 or less in grant funds may submit a statement signed by the chief executive officer of the recipient in lieu of an audit. Such verified statement shall include a schedule of budgeted and actual expenditures and shall represent that grant funds have been used for the purpose contained in the appropriation, or other funding source, and the grant agreement. The verified statement shall further state that the recipient has complied with all requirements with respect to the grant as set forth in the statute, administrative rules, or grant agreement, if applicable.
- c) The recipient shall file Periodic Performance Reports with the Board on progress made and financial data for the reporting period. The initial report shall cover the first 3 months after the Board approves the award. Reports are to be filed using the forms provided by the Board and submitted no later than 30 days after the end of each quarter. (See GATA Rule Section 7000.410).
- d) The awardee shall take the following actions to complete grant closeout at the end of the period of performance. (See GATA Rule Section 7000.440).

- 1) Promptly refund any balances of unobligated cash that the Board paid in advance and that are not authorized to be retained by the awardee for use in other projects. Refunds shall be returned to the Board within 45 days after the end of the period of performance.
- 2) Expend any encumbered grant funds during a lapse period of 60 days past the end of the period of performance. Any encumbered but unexpended grant funds remaining at the end of the lapse period shall be returned to the Board within 45 days.
- 3) Submit, no later than 60 days after the end date of the grant period, a statement of costs and revenues signed by the institution's authorized representative.
- 4) Deadlines may be extended at the discretion of the Board. Extensions shall be issued only in extraordinary circumstances not in the control of the awardee.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

ATTACHMENT 2: ADOPTED RULE

**TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION**

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"Grant Period" or "Period of Performance" means the time during which the awardee may incur new obligations to carry out the work authorized. The Board will include the start and end dates in the grant agreement.

"Non-Designated Grant" means a grant funded by an appropriation or other source that specifies the recipient of the grant but does not specify the purpose of

the grant.

"Other Sources of Funding" means those grant funds provided through entities outside of State and federal government that are not appropriated (e.g., interagency agreement, foundations, associations, businesses or charities) and are to be allocated to other recipients.

"Recipient" means:

the institution of higher education or other entity, public or private, that is designated by an appropriation or other source to receive a grant; or

a class of institutions that is designated by an appropriation or other source to receive a grant.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1001.30 Grant Amounts and Allocations

Grant amounts and allocations shall be made as provided in the Section.

- a) When the appropriation or other funding source specifies a specific amount for a recipient or recipients, the grant amount shall be the sum specified by the appropriation or other funding source.
- b) When the appropriation appears to leave discretion in the allocation of grant funds to the Board, the Board will determine the intent of the Governor and the General Assembly in passing the legislation and will allocate grants accordingly. If that intent cannot be determined, the Board will determine eligibility for the grants in accordance with the stated purpose of the grant as specified by the appropriation or other funding source. The Board will notify all potentially eligible recipients prior to making grants.
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 - 1) In those cases in which the appropriation or other funding source specifies a specific amount for a class of recipients, the grant amounts shall be determined by the method specified by the appropriation or other funding source.
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- d) The Grant Agreement must be executed by the authorized representative of the recipient within 60 days after receipt of the proposed Grant Agreement from the Board.
- e) Designated grant funds may not be used to reimburse a recipient for obligations or expenditures prior to the date of the Grant Agreement, except that otherwise eligible expenditures that occur after the effective date of any appropriation may be reimbursed from grant funds.
- f) Designated grant funds may be distributed by the Board to a recipient prior to the expenditure or obligation by the recipient.
- g) Interest earned by the recipient is subject to the Parameters Regarding Interest Earned stipulated by GATU (see GATA Rule Section 7000.120).

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