

SB3958



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3958

Introduced 1/21/2022, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

30 ILCS 708/15
30 ILCS 708/135 new

Amends the Grant Accountability and Transparency Act. Provides that grants shall not restrict the amount of money used to pay for fringe benefits. Provides that grants shall not restrict administrative costs to less than 20% of the grant award. Defines "fringe benefits".

LRB102 24542 RJF 33776 b

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 5. The Grant Accountability and Transparency Act
5 is amended by changing Section 15 and by adding Section 135 as
6 follows:

7 (30 ILCS 708/15)

8 Sec. 15. Definitions. As used in this Act:

9 "Allowable cost" means a cost allowable to a project if:

10 (1) the costs are reasonable and necessary for the
11 performance of the award;

12 (2) the costs are allocable to the specific project;

13 (3) the costs are treated consistently in like
14 circumstances to both federally-financed and other
15 activities of the non-federal entity;

16 (4) the costs conform to any limitations of the cost
17 principles or the sponsored agreement;

18 (5) the costs are accorded consistent treatment; a
19 cost may not be assigned to a State or federal award as a
20 direct cost if any other cost incurred for the same
21 purpose in like circumstances has been allocated to the
22 award as an indirect cost;

23 (6) the costs are determined to be in accordance with

1 generally accepted accounting principles;

2 (7) the costs are not included as a cost or used to
3 meet federal cost-sharing or matching requirements of any
4 other program in either the current or prior period;

5 (8) the costs of one State or federal grant are not
6 used to meet the match requirements of another State or
7 federal grant; and

8 (9) the costs are adequately documented.

9 "Auditee" means any non-federal entity that expends State
10 or federal awards that must be audited.

11 "Auditor" means an auditor who is a public accountant or a
12 federal, State, or local government audit organization that
13 meets the general standards specified in generally-accepted
14 government auditing standards. "Auditor" does not include
15 internal auditors of nonprofit organizations.

16 "Auditor General" means the Auditor General of the State
17 of Illinois.

18 "Award" means financial assistance that provides support
19 or stimulation to accomplish a public purpose. "Awards"
20 include grants and other agreements in the form of money, or
21 property in lieu of money, by the State or federal government
22 to an eligible recipient. "Award" does not include: technical
23 assistance that provides services instead of money; other
24 assistance in the form of loans, loan guarantees, interest
25 subsidies, or insurance; direct payments of any kind to
26 individuals; or contracts that must be entered into and

1 administered under State or federal procurement laws and
2 regulations.

3 "Budget" means the financial plan for the project or
4 program that the awarding agency or pass-through entity
5 approves during the award process or in subsequent amendments
6 to the award. It may include the State or federal and
7 non-federal share or only the State or federal share, as
8 determined by the awarding agency or pass-through entity.

9 "Catalog of Federal Domestic Assistance" or "CFDA" means a
10 database that helps the federal government track all programs
11 it has domestically funded.

12 "Catalog of Federal Domestic Assistance number" or "CFDA
13 number" means the number assigned to a federal program in the
14 CFDA.

15 "Catalog of State Financial Assistance" means the single,
16 authoritative, statewide, comprehensive source document of
17 State financial assistance program information maintained by
18 the Governor's Office of Management and Budget.

19 "Catalog of State Financial Assistance Number" means the
20 number assigned to a State program in the Catalog of State
21 Financial Assistance. The first 3 digits represent the State
22 agency number and the last 4 digits represent the program.

23 "Cluster of programs" means a grouping of closely related
24 programs that share common compliance requirements. The types
25 of clusters of programs are research and development, student
26 financial aid, and other clusters. A "cluster of programs"

1 shall be considered as one program for determining major
2 programs and, with the exception of research and development,
3 whether a program-specific audit may be elected.

4 "Cognizant agency for audit" means the federal agency
5 designated to carry out the responsibilities described in 2
6 CFR 200.513(a).

7 "Contract" means a legal instrument by which a non-federal
8 entity purchases property or services needed to carry out the
9 project or program under an award. "Contract" does not include
10 a legal instrument, even if the non-federal entity considers
11 it a contract, when the substance of the transaction meets the
12 definition of an award or subaward.

13 "Contractor" means an entity that receives a contract.

14 "Cooperative agreement" means a legal instrument of
15 financial assistance between an awarding agency or
16 pass-through entity and a non-federal entity that:

17 (1) is used to enter into a relationship with the
18 principal purpose of transferring anything of value from
19 the awarding agency or pass-through entity to the
20 non-federal entity to carry out a public purpose
21 authorized by law, but is not used to acquire property or
22 services for the awarding agency's or pass-through
23 entity's direct benefit or use; and

24 (2) is distinguished from a grant in that it provides
25 for substantial involvement between the awarding agency or
26 pass-through entity and the non-federal entity in carrying

1 out the activity contemplated by the award.

2 "Cooperative agreement" does not include a cooperative
3 research and development agreement, nor an agreement that
4 provides only direct cash assistance to an individual, a
5 subsidy, a loan, a loan guarantee, or insurance.

6 "Corrective action" means action taken by the auditee that
7 (i) corrects identified deficiencies, (ii) produces
8 recommended improvements, or (iii) demonstrates that audit
9 findings are either invalid or do not warrant auditee action.

10 "Cost objective" means a program, function, activity,
11 award, organizational subdivision, contract, or work unit for
12 which cost data is desired and for which provision is made to
13 accumulate and measure the cost of processes, products, jobs,
14 and capital projects. A "cost objective" may be a major
15 function of the non-federal entity, a particular service or
16 project, an award, or an indirect cost activity.

17 "Cost sharing" means the portion of project costs not paid
18 by State or federal funds, unless otherwise authorized by
19 statute.

20 "Development" is the systematic use of knowledge and
21 understanding gained from research directed toward the
22 production of useful materials, devices, systems, or methods,
23 including design and development of prototypes and processes.

24 "Data Universal Numbering System number" means the 9-digit
25 number established and assigned by Dun and Bradstreet, Inc. to
26 uniquely identify entities and, under federal law, is required

1 for non-federal entities to apply for, receive, and report on
2 a federal award.

3 "Direct costs" means costs that can be identified
4 specifically with a particular final cost objective, such as a
5 State or federal or federal pass-through award or a particular
6 sponsored project, an instructional activity, or any other
7 institutional activity, or that can be directly assigned to
8 such activities relatively easily with a high degree of
9 accuracy.

10 "Equipment" means tangible personal property (including
11 information technology systems) having a useful life of more
12 than one year and a per-unit acquisition cost that equals or
13 exceeds the lesser of the capitalization level established by
14 the non-federal entity for financial statement purposes, or
15 \$5,000.

16 "Executive branch" means that branch of State government
17 that is under the jurisdiction of the Governor.

18 "Federal agency" has the meaning provided for "agency"
19 under 5 U.S.C. 551(1) together with the meaning provided for
20 "agency" by 5 U.S.C. 552(f).

21 "Federal award" means:

22 (1) the federal financial assistance that a
23 non-federal entity receives directly from a federal
24 awarding agency or indirectly from a pass-through entity;

25 (2) the cost-reimbursement contract under the Federal
26 Acquisition Regulations that a non-federal entity receives

1 directly from a federal awarding agency or indirectly from
2 a pass-through entity; or

3 (3) the instrument setting forth the terms and
4 conditions when the instrument is the grant agreement,
5 cooperative agreement, other agreement for assistance
6 covered in paragraph (b) of 20 CFR 200.40, or the
7 cost-reimbursement contract awarded under the Federal
8 Acquisition Regulations.

9 "Federal award" does not include other contracts that a
10 federal agency uses to buy goods or services from a contractor
11 or a contract to operate federal government owned,
12 contractor-operated facilities.

13 "Federal awarding agency" means the federal agency that
14 provides a federal award directly to a non-federal entity.

15 "Federal interest" means, for purposes of 2 CFR 200.329 or
16 when used in connection with the acquisition or improvement of
17 real property, equipment, or supplies under a federal award,
18 the dollar amount that is the product of the federal share of
19 total project costs and current fair market value of the
20 property, improvements, or both, to the extent the costs of
21 acquiring or improving the property were included as project
22 costs.

23 "Federal program" means any of the following:

24 (1) All federal awards which are assigned a single
25 number in the CFDA.

26 (2) When no CFDA number is assigned, all federal

1 awards to non-federal entities from the same agency made
2 for the same purpose should be combined and considered one
3 program.

4 (3) Notwithstanding paragraphs (1) and (2) of this
5 definition, a cluster of programs. The types of clusters
6 of programs are:

7 (A) research and development;

8 (B) student financial aid; and

9 (C) "other clusters", as described in the
10 definition of "cluster of programs".

11 "Federal share" means the portion of the total project
12 costs that are paid by federal funds.

13 "Final cost objective" means a cost objective which has
14 allocated to it both direct and indirect costs and, in the
15 non-federal entity's accumulation system, is one of the final
16 accumulation points, such as a particular award, internal
17 project, or other direct activity of a non-federal entity.

18 "Financial assistance" means the following:

19 (1) For grants and cooperative agreements, "financial
20 assistance" means assistance that non-federal entities
21 receive or administer in the form of:

22 (A) grants;

23 (B) cooperative agreements;

24 (C) non-cash contributions or donations of
25 property, including donated surplus property;

26 (D) direct appropriations;

1 (E) food commodities; and

2 (F) other financial assistance, except assistance
3 listed in paragraph (2) of this definition.

4 (2) "Financial assistance" includes assistance that
5 non-federal entities receive or administer in the form of
6 loans, loan guarantees, interest subsidies, and insurance.

7 (3) "Financial assistance" does not include amounts
8 received as reimbursement for services rendered to
9 individuals.

10 "Fixed amount awards" means a type of grant agreement
11 under which the awarding agency or pass-through entity
12 provides a specific level of support without regard to actual
13 costs incurred under the award. "Fixed amount awards" reduce
14 some of the administrative burden and record-keeping
15 requirements for both the non-federal entity and awarding
16 agency or pass-through entity. Accountability is based
17 primarily on performance and results.

18 "Foreign public entity" means:

19 (1) a foreign government or foreign governmental
20 entity;

21 (2) a public international organization that is
22 entitled to enjoy privileges, exemptions, and immunities
23 as an international organization under the International
24 Organizations Immunities Act (22 U.S.C. 288-288f);

25 (3) an entity owned, in whole or in part, or
26 controlled by a foreign government; or

1 (4) any other entity consisting wholly or partially of
2 one or more foreign governments or foreign governmental
3 entities.

4 "Foreign organization" means an entity that is:

5 (1) a public or private organization located in a
6 country other than the United States and its territories
7 that are subject to the laws of the country in which it is
8 located, irrespective of the citizenship of project staff
9 or place of performance;

10 (2) a private nongovernmental organization located in
11 a country other than the United States that solicits and
12 receives cash contributions from the general public;

13 (3) a charitable organization located in a country
14 other than the United States that is nonprofit and tax
15 exempt under the laws of its country of domicile and
16 operation, but is not a university, college, accredited
17 degree-granting institution of education, private
18 foundation, hospital, organization engaged exclusively in
19 research or scientific activities, church, synagogue,
20 mosque, or other similar entity organized primarily for
21 religious purposes; or

22 (4) an organization located in a country other than
23 the United States not recognized as a Foreign Public
24 Entity.

25 "Fringe benefits" means allowances and services provided
26 by employers to their employees as compensation in addition to

1 regular salaries and wages. "Fringe benefits" include, but are
2 not limited to, the costs of leave (vacation, family-related,
3 sick, or military), employee insurance, pensions, and
4 unemployment benefit plans.

5 "Generally Accepted Accounting Principles" has the meaning
6 provided in accounting standards issued by the Government
7 Accounting Standards Board and the Financial Accounting
8 Standards Board.

9 "Generally Accepted Government Auditing Standards" means
10 generally accepted government auditing standards issued by the
11 Comptroller General of the United States that are applicable
12 to financial audits.

13 "Grant agreement" means a legal instrument of financial
14 assistance between an awarding agency or pass-through entity
15 and a non-federal entity that:

16 (1) is used to enter into a relationship, the
17 principal purpose of which is to transfer anything of
18 value from the awarding agency or pass-through entity to
19 the non-federal entity to carry out a public purpose
20 authorized by law and not to acquire property or services
21 for the awarding agency or pass-through entity's direct
22 benefit or use; and

23 (2) is distinguished from a cooperative agreement in
24 that it does not provide for substantial involvement
25 between the awarding agency or pass-through entity and the
26 non-federal entity in carrying out the activity

1 contemplated by the award.

2 "Grant agreement" does not include an agreement that
3 provides only direct cash assistance to an individual, a
4 subsidy, a loan, a loan guarantee, or insurance.

5 "Grant application" means a specified form that is
6 completed by a non-federal entity in connection with a request
7 for a specific funding opportunity or a request for financial
8 support of a project or activity.

9 "Hospital" means a facility licensed as a hospital under
10 the law of any state or a facility operated as a hospital by
11 the United States, a state, or a subdivision of a state.

12 "Illinois Debarred and Suspended List" means the list
13 maintained by the Governor's Office of Management and Budget
14 that contains the names of those individuals and entities that
15 are ineligible, either temporarily or permanently, from
16 receiving an award of grant funds from the State.

17 "Indirect cost" means those costs incurred for a common or
18 joint purpose benefitting more than one cost objective and not
19 readily assignable to the cost objectives specifically
20 benefitted without effort disproportionate to the results
21 achieved.

22 "Inspector General" means the Office of the Executive
23 Inspector General for Executive branch agencies.

24 "Loan" means a State or federal loan or loan guarantee
25 received or administered by a non-federal entity. "Loan" does
26 not include a "program income" as defined in 2 CFR 200.80.

1 "Loan guarantee" means any State or federal government
2 guarantee, insurance, or other pledge with respect to the
3 payment of all or a part of the principal or interest on any
4 debt obligation of a non-federal borrower to a non-federal
5 lender, but does not include the insurance of deposits,
6 shares, or other withdrawable accounts in financial
7 institutions.

8 "Local government" has the meaning provided for the term
9 "units of local government" under Section 1 of Article VII of
10 the Illinois Constitution and includes school districts.

11 "Major program" means a federal program determined by the
12 auditor to be a major program in accordance with 2 CFR 200.518
13 or a program identified as a major program by a federal
14 awarding agency or pass-through entity in accordance with 2
15 CFR 200.503(e).

16 "Non-federal entity" means a state, local government,
17 Indian tribe, institution of higher education, or
18 organization, whether nonprofit or for-profit, that carries
19 out a State or federal award as a recipient or subrecipient.

20 "Nonprofit organization" means any corporation, trust,
21 association, cooperative, or other organization, not including
22 institutions of higher education, that:

23 (1) is operated primarily for scientific, educational,
24 service, charitable, or similar purposes in the public
25 interest;

26 (2) is not organized primarily for profit; and

1 (3) uses net proceeds to maintain, improve, or expand
2 the operations of the organization.

3 "Obligations", when used in connection with a non-federal
4 entity's utilization of funds under an award, means orders
5 placed for property and services, contracts and subawards
6 made, and similar transactions during a given period that
7 require payment by the non-federal entity during the same or a
8 future period.

9 "Office of Management and Budget" means the Office of
10 Management and Budget of the Executive Office of the
11 President.

12 "Other clusters" has the meaning provided by the federal
13 Office of Management and Budget in the compliance supplement
14 or has the meaning as it is designated by a state for federal
15 awards the state provides to its subrecipients that meet the
16 definition of a cluster of programs. When designating an
17 "other cluster", a state must identify the federal awards
18 included in the cluster and advise the subrecipients of
19 compliance requirements applicable to the cluster.

20 "Oversight agency for audit" means the federal awarding
21 agency that provides the predominant amount of funding
22 directly to a non-federal entity not assigned a cognizant
23 agency for audit. When there is no direct funding, the
24 awarding agency that is the predominant source of pass-through
25 funding must assume the oversight responsibilities. The duties
26 of the oversight agency for audit and the process for any

1 reassignments are described in 2 CFR 200.513(b).

2 "Pass-through entity" means a non-federal entity that
3 provides a subaward to a subrecipient to carry out part of a
4 program.

5 "Private award" means an award from a person or entity
6 other than a State or federal entity. Private awards are not
7 subject to the provisions of this Act.

8 "Property" means real property or personal property.

9 "Project cost" means total allowable costs incurred under
10 an award and all required cost sharing and voluntary committed
11 cost sharing, including third-party contributions.

12 "Public institutions of higher education" has the meaning
13 provided in Section 1 of the Board of Higher Education Act.

14 "Recipient" means a non-federal entity that receives an
15 award directly from an awarding agency to carry out an
16 activity under a program. "Recipient" does not include
17 subrecipients.

18 "Research and Development" means all research activities,
19 both basic and applied, and all development activities that
20 are performed by non-federal entities.

21 "Single Audit Act" means the federal Single Audit Act
22 Amendments of 1996 (31 U.S.C. 7501-7507).

23 "State agency" means an Executive branch agency. For
24 purposes of this Act, "State agency" does not include public
25 institutions of higher education.

26 "State award" means the financial assistance that a

1 non-federal entity receives from the State and that is funded
2 with either State funds or federal funds; in the latter case,
3 the State is acting as a pass-through entity.

4 "State awarding agency" means a State agency that provides
5 an award to a non-federal entity.

6 "State grant-making agency" has the same meaning as "State
7 awarding agency".

8 "State interest" means the acquisition or improvement of
9 real property, equipment, or supplies under a State award, the
10 dollar amount that is the product of the State share of the
11 total project costs and current fair market value of the
12 property, improvements, or both, to the extent the costs of
13 acquiring or improving the property were included as project
14 costs.

15 "State program" means any of the following:

16 (1) All State awards which are assigned a single
17 number in the Catalog of State Financial Assistance.

18 (2) When no Catalog of State Financial Assistance
19 number is assigned, all State awards to non-federal
20 entities from the same agency made for the same purpose
21 are considered one program.

22 (3) A cluster of programs as defined in this Section.

23 "State share" means the portion of the total project costs
24 that are paid by State funds.

25 "Stop payment order" means a communication from a State
26 grant-making agency to the Office of the Comptroller,

1 following procedures set out by the Office of the Comptroller,
2 causing the cessation of payments to a recipient or
3 subrecipient as a result of the recipient's or subrecipient's
4 failure to comply with one or more terms of the grant or
5 subaward.

6 "Stop payment procedure" means the procedure created by
7 the Office of the Comptroller which effects a stop payment
8 order and the lifting of a stop payment order upon the request
9 of the State grant-making agency.

10 "Student Financial Aid" means federal awards under those
11 programs of general student assistance, such as those
12 authorized by Title IV of the Higher Education Act of 1965, as
13 amended (20 U.S.C. 1070-1099d), that are administered by the
14 United States Department of Education and similar programs
15 provided by other federal agencies. "Student Financial Aid"
16 does not include federal awards under programs that provide
17 fellowships or similar federal awards to students on a
18 competitive basis or for specified studies or research.

19 "Subaward" means a State or federal award provided by a
20 pass-through entity to a subrecipient for the subrecipient to
21 carry out part of a federal award received by the pass-through
22 entity. "Subaward" does not include payments to a contractor
23 or payments to an individual that is a beneficiary of a federal
24 program. A "subaward" may be provided through any form of
25 legal agreement, including an agreement that the pass-through
26 entity considers a contract.

1 "Subrecipient" means a non-federal entity that receives a
2 State or federal subaward from a pass-through entity to carry
3 out part of a federal program. "Subrecipient" does not include
4 an individual that is a beneficiary of such program. A
5 "subrecipient" may also be a recipient of other State or
6 federal awards directly from a State or federal awarding
7 agency.

8 "Suspension" means a post-award action by the State or
9 federal agency or pass-through entity that temporarily
10 withdraws the State or federal agency's or pass-through
11 entity's financial assistance sponsorship under an award,
12 pending corrective action by the recipient or subrecipient or
13 pending a decision to terminate the award.

14 "Uniform Administrative Requirements, Costs Principles,
15 and Audit Requirements for Federal Awards" means those rules
16 applicable to grants contained in 2 CFR 200.

17 "Voluntary committed cost sharing" means cost sharing
18 specifically pledged on a voluntary basis in the proposal's
19 budget or the award on the part of the non-federal entity and
20 that becomes a binding requirement of the award.

21 (Source: P.A. 100-997, eff. 8-20-18.)

22 (30 ILCS 708/135 new)

23 Sec. 135. Contract limitations.

24 (a) Grants shall not restrict the amount of money used to
25 pay for fringe benefits.

1 (b) Grants shall not restrict administrative costs to less
2 than 20% of the grant award.