

 ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY	Subject: Grant Funds Recovery Policy and Procedures	
	Department: Office of General Counsel	
	Effective Date: 1/29/2024	
General Counsel Signature: <i>Kristina Dion</i>		Date: 1/22/2024
Executive Director Signature: <i>Debrice J. Adams</i>		Date: 1/22/2024

- I. **POLICY STATEMENT:** The Grant Funds Recovery Act and Administrative Code¹ require State Grant-Making agencies to take affirmative and timely action to recover all misspent or improperly held grant funds.

This policy establishes procedures for 1) determining misspent or improperly held grant funds, 2) initiating and effecting the grant funds recovery process, 3) interaction with the Illinois Stop Payment List, and 4) fund recovery.

II. DEFINITIONS

Grant funds: 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. This includes all funds that are disbursed through ICJIA's subrecipient policy or through a subcontract. Funds disbursed in accordance with a fee for service purchase of care contract are not grant funds for purposes of this policy.

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.

¹ 44 Ill Admin Code 7000.450

Prohibited political activity: As defined in Section 1-5 of the State Officials and Employees Ethics Act.²

Informal hearing: An informal hearing is a meeting scheduled by ICJIA staff and moderated by the Office of General Counsel (OGC) wherein ICJIA representatives will present the facts and issues that lead ICJIA to believe that grant funds are subject to recovery. During the informal hearing, the grantee will have the opportunity to respond to ICJIA's determination and provide additional information for consideration. The goal of the meeting is to resolve any conflicts as amicably as possible before ICJIA takes formal recovery actions. See Section IV.

Sufficient information: Sufficient information is whatever information OGC determines is necessary to successfully pursue grant funds recovery in an administrative hearing. It shall include, but is not limited to, the total amount of misspent or improperly held grant funds, relevant periodic fiscal reports (PFRs) or audit report(s), written explanation from the party recommending the initiation of the grant funds recovery process as to why recovery is recommended, and if applicable, notice of an ethics violation from ICJIA's Ethics Officer.

First Stop Pay Notification: A notice provided to a grantee notifying the grantee of the non-compliance issue. The communication will state that the grantee and its parent organization, if applicable under subsection (h), 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 after receipt of the notification.

Second Stop Pay Notification: A notice provided to a grantee 15 days after the First Stop Pay Notification indicating that the grantee did not remedy the non-compliance issue and will be placed on the stop pay list immediately.

III. MISSPENT OR IMPROPERLY HELD GRANT FUNDS³

- a. Grant funds are misspent or improperly held if a grantee (this is a non-exhaustive list):
 - i. Knowingly uses grant funds, or goods or services purchased with grant funds, to engage, either directly or indirectly, in a prohibited political activity;

² See Attachment 1.

³ Nothing in this Section shall prohibit any 501(c)(3) or 501(c)(4) organization receiving a grant from the State from engaging in any federally permissible activity regarding advocacy, indirect and direct lobbying, and political activity, provided that the specific funds acquired by a grant from the State shall not be knowingly used for those activities that are permitted by federal law but prohibited by this Section.

- ii. Knowingly compensated from grant funds for time spent engaging in a prohibited political activity;
 - iii. Does not expend or legally obligate funds by the end of the grant agreement and does not return the funds to ICJIA within 45 days;
 - iv. Spends funds on items not allowed by the grant agreement, state or federal law, administrative rules, regulations, ICJIA policy, or the applicable notice of funding opportunity; or
 - v. Spends funds on items not included in the approved budget.
- b. Misspent funds or improperly held grant funds may be discovered during or after the period of performance.
 - i. If ICJIA discovers that funds have been misspent or improperly held during the period of performance as the result of a periodic fiscal report (PFR) review:
 - 1. The grant specialist shall immediately notify their program manager, the General Counsel or a designee, and the Chief Accountability Officer (CAO) or a designee.
 - 2. The grant specialist should work with the grantee to determine if recovery can be accomplished by offsetting the amount owed from the next PFR. The grant specialist should keep the OGC informed of correspondence related to the misspent or improperly held funds.
 - 3. If the grant specialist and the grantee are unable to offset the amount owed or if the grantee disputes that an amount is owed, the grant specialist should refer the matter to OGC.
 - 4. If the OGC determines sufficient information exists to initiate recovery, the CAO shall send the first a stop pay notification to the grantee.
 - 5. If the OGC determines there is insufficient information to initiate recovery, the OGC will gather additional information as needed.
 - a. If the amount misspent or improperly held funds exceeds \$250,000, OGC shall send the first stop pay notification to the grantee and refer the grant to a third-party auditor to conduct an audit.
 - b. Upon completion of the third-party audit, OGC will proceed with Grant Funds Recovery Initiation as outlined in Section IV.
 - 6. If the amount of misspent or improperly held funds is less than \$250,000, OGC will proceed with Grant Funds Recovery Initiation as outlined in Section IV.
 - ii. If ICJIA discovers a grantee has improperly held or misspent funds as the result of an audit during or after the period of performance:

1. The Office of Fiscal Management (OFM) shall send the final audit report to OGC and the grant specialist. OFM will also provide the audit report findings or audit report to the grantee.
2. If the audit was conducted during the period of performance, the grant specialist should work with the grantee to determine if recovery can be accomplished by offsetting the amount owed from the next PFR. The grant specialist should keep the OGC informed of correspondence related to the misspent or improperly held funds.
 - a. If the grant specialist and the grantee are unable to offset the amount owed or if the grantee disputes that an amount is owed, the grant specialist should ask OGC to initiate recovery.
3. If the audit was conducted outside of the period of performance, OFM should ask OGC to initiate recovery.
4. OGC shall review the audit report to determine if sufficient information exists to initiate grant funds recovery.
5. If OGC determines sufficient information exists to initiate recovery, the CAO shall send the first stop pay notification to the grantee.⁴
6. If OGC determines that there is insufficient information to begin recovery, the OGC will gather additional information as necessary.
 - a. If the amount misspent or improperly held funds exceeds \$250,000 and the audit was conducted by ICJIA auditors, OGC shall send the first stop pay notification to the grantee and refer the grant to a third-party auditor to conduct an audit.
 - b. Upon completion of the third-party audit, OGC will proceed with Grant Funds Recovery Initiation as outlined in Section IV.
7. If the amount of misspent or improperly held funds is less than \$250,000, OGC will proceed with Grant Funds Recovery Initiation as outlined in Section IV.

IV. GRANT FUNDS RECOVERY INITIATION⁵

- a. Once OGC determines there is sufficient information to initiate Grant Funds Recovery, OGC will schedule, or direct the grant specialist to schedule, an informal hearing with grantee to provide the opportunity to determine the facts and issues and to resolve any conflicts before taking formal recovery actions.

⁴ See Stop Pay Policy

⁵ 30 ILCS 705/8

- i. OGC will draft an informal hearing notification. The informal hearing notification shall include the date of the hearing, the amount of questioned costs, and support for why ICJIA believes grant funds are subject to recovery.
- ii. OGC will also notify the CAO to issue a first stop pay notification letter.
- iii. Informal Hearing
 - 1. The informal hearing shall include grantee personnel that have authority to make decisions on behalf of the entity and specific knowledge of the grant at issue.
 - 2. ICJIA shall have at least one representative of OGC, OFM and the Federal and State Grants Unit (FSGU).
 - 3. Informal hearings shall be recorded and saved in the Compliance Folder on a shared drive maintained by OGC.
- iv. Within 5 business days after the informal hearing, OGC shall send a written notice to grantee that includes the following:
 - 1. The specific funds and the amount to be recovered and the specific facts which permit recovery.
 - 2. A statement that the grantee has 35 days from receipt to request a formal hearing to show why recovery is not justified or proper.
 - 3. If grantee did not communicate their intent to settle at the informal hearing, OGC shall notify the CAO to immediately place them on the stop pay list and send a second stop pay notification on the 15th day after the first stop pay notification, whichever is later (see Stop Payment Policy).
 - 4. The notice shall include the recovery actions listed in Section VII (b).
- v. If Grantee does not request a hearing, ICJIA may proceed with one or a combination of the methods described in Section VII.
- vi. OGC shall notify the Executive Director, or designee, prior to proceeding to Section V or Section VII.

V. FORMAL PROCEDURES FOR RECOVERY

- a. If Grantee requests a formal hearing, the General Counsel shall designate a member of OGC to represent the agency in an administrative hearing.
- b. All ICJIA staff members shall prioritize requests by OGC related to the administrative hearing; including but not limited to:
 - i. Document requests;
 - ii. Meetings and discussions to prepare for the hearing; and
 - iii. Availability for testimony at hearing.

- c. If determined by the Executive Director, OGC may refer representation to the Attorney General.

VI. POST-ADMINISTRATIVE HEARING

- a. A second member of OGC shall be designated to review the recommendation of the administrative law judge and all supporting documents.
- b. After review, OGC shall draft a final recovery order to present to the Executive Director.
- c. OGC shall send the full administrative record and the final order to the Executive Director for review.
- d. OGC shall schedule a meeting with the Executive Director to address any questions or concerns and will edit the final order as necessary.
- e. The final order shall reflect the decision of the Executive Director.
- f. After the Executive Director signs the final order, it shall be sent to the grantee via certified mail along with a separate notice that grantee may seek judicial review with the Circuit Court. (see Attachment X)
- g. No recovery action may be taken until 35 days after issuance of the final order.
- h. OGC shall monitor correspondence from the grantee regarding any appeals to the Circuit Court.
- i. If such an appeal is made, OGC shall send a request for representation to the General Law Bureau Office of the Attorney General.
- j. If no such appeal is made within 35 days of the issuance of the final order, ICJIA may proceed with the recovery actions.

VII. FUND RECOVERY

- a. Once a decision is made final, OGC shall contact the relevant units and entities to begin recovery.
- b. ICJIA may use any one or a combination of the following to effectuate recovery of misspent or improperly held grant funds⁶:
 - i. offset against existing grants of, or future grants to be made by ICJIA;
 - ii. authorize the offset from existing grants or grants to be made by other grantor agencies;
 - iii. 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;
 - iv. initiate any debt collection method authorized by law to any private person⁷; or

⁶ 30 ILCS 705/8

⁷ Including methods authorized by 30 ILCS 210; see Attachment 2.

- v. remove the grantee from any of ICJIA's programs and forbid the grantee's participation in any such future grant programs for a period not to exceed 2 years.
- c. 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.
- d. Deferred payment plans initiated under (b)(iv) shall be in accordance with the State Prompt Payment Act

VIII. QUESTIONS OR CONCERNS

- a. Questions or concerns about this policy should be directed to CJA.AgencyPolicy@illinois.gov. Please complete a Policy Comment Form as described in the Policy Approval and Implementation Policy.

Attachment 1

Reproduced sections of State Officers and Employees Ethics Act

5 ILCS 430/1-5

"Prohibited political activity" means:

- (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
- (2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
- (3) Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.
- (4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
- (8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
- (10) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.
- (11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
- (12) Campaigning for any elective office or for or against any referendum question.
- (13) Managing or working on a campaign for elective office or for or against any referendum question.
- (14) Serving as a delegate, alternate, or proxy to a political party convention.

- (15) Participating in any recount or challenge to the outcome of any election, except to the extent that under subsection (d) of Section 6 of Article IV of the Illinois Constitution each house of the General Assembly shall judge the elections, returns, and qualifications of its members.