



**ILLINOIS
CRIMINAL JUSTICE
INFORMATION AUTHORITY**

300 W. Adams Street • Suite 200 • Chicago, Illinois 60606 • (312) 793-8550

MEMORANDUM

To: Grantees and Other Interested Parties

From: Illinois Criminal Justice Information Authority

Date: October 20, 2017

Re: Change in ICJIA Policy and Procedures for Grantee Payments

This memorandum is a modified version of a letter that the Illinois Criminal Justice Information Authority (ICJIA) circulated to its grantees on October 13, 2017 to notify them that effective October 1, 2017, ICJIA has changed its policies and procedures related to grantee payments, and will use a reimbursement-only system for paying its grantees. This change is mandated by federal requirements and, through the Illinois Grant Accountability and Transparency Act (GATA), applies to state grants as well.

Background:

ICJIA is the state administering agency (SAA) for the State of Illinois, and as such, is responsible for comprehensive criminal justice planning and policy development. A key component of the SAA's responsibility is allocating, monitoring, and reporting on federal criminal justice and victim services grant resources it administers statewide. As part of its statutory obligations, ICJIA's grant administration must comply with a multitude of federal and state laws that, among other things, dictate how the funds can be spent, who the eligible sub-recipients are, procedures for monitoring the sub-grants, procedures for paying sub-grantees.

Per the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Federal Uniform Requirements): "Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, **immediate cash requirements** of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as administratively feasible to the actual disbursements by the non-Federal entity" 2 CFR § 200.305 (emphasis added).

The Department of Justice (DOJ) has codified its interpretation of that requirement in Section 3.1 of the 2015 DOJ Grants Financial Guide, which states that federal grant funds are to be drawn

down over time based upon “immediate disbursement/reimbursement requirements.” ICJIA is required to “time draw down requests to ensure that Federal cash on hand is the minimum needed for disbursements/reimbursements to be made **immediately or within 10 days.**” ICJIA is allowed to make either reimbursements or advance payments, but advances must be spent within 10 days of receipt. Section 3.1 of the 2015 DOJ Grants Financial Guide (emphasis added).

Since the DOJ Grants Financial Guide was issued in 2015, ICJIA interpreted this reimbursement/10-day advancement rule to apply only to itself, not to our grantees. During the summer of 2017, however, ICJIA learned through a federal site visit that DOJ has interpreted this reimbursement/10-day advancement rule to apply to sub-recipients as well as ICJIA.

ICJIA began conversations with the federal Program Manager as well as others at the Office of the Chief Financial Officer (OCFO) for the Office of Justice Programs (OJP) to formulate a plan and timeline for ICJIA to change its policies and procedures to have its grantees come into compliance with the reimbursement/10-day rule. At that time, ICJIA was hoping to reach an agreement with DOJ that would allow ICJIA to implement the change going forward on new grants, such that ICJIA grantees under existing grants would not be affected. These conversations were ongoing during August and September of 2017.

Then, on September 26, 2017, OJP notified all of its current award recipients of a new certification requirement that applies to each payment request, effective October 2017. The full body and language of that certification is included as an attachment to this memorandum. Among other assurances, ICJIA is required to certify under penalty of perjury that it is in compliance with the reimbursement/10-day advancement rule discussed above.

ICJIA had no advance notice or warning that this certification requirement was coming. Therefore, it had 5 days’ notice to seek clarification of the certification’s meaning and applicability, request a waiver to come into compliance at a later date, and/or to change its policies and procedures so that it would be able to make the required certification. ICJIA did each of these things in turn.

First, we sought clarification and were told, in unequivocal terms, that the certification encompasses the timing of when our grantees spend the funds that they receive from ICJIA. Meaning, under our previous procedure of advancing payments to grantees for up to 3 months at a time, we would not be able to make the necessary certification. From there, we elevated the conversation to higher ranking individuals at OJP to seek a waiver that would allow us to come into compliance at a later date, as we had already been planning to do in response to the site visit finding earlier in the year. OJP denied that request, stating that the substantive requirements of the certification were not new, and therefore no waiver or extension could be given.

Having been told that under our existing procedures we would not be in a position to make the certification, and being denied a waiver or extension, ICJIA had no choice but to change its relevant policies and procedures, effective October 1, 2017. Without making this change, not only would ICJIA be in violation of state and federal law, but it would also be unable to drawdown any of its federal funds, preventing any of its grantees from receiving payment.

ICJIA Payment Policy:

Effective October 1, 2017, ICJIA has adopted a reimbursement-only payment policy. Consistent with the DOJ Grants Financial Guide and other federal requirements, ICJIA will make payments to grantees only based on financial reports documenting actual expenditures. Reports will no longer contain a section to submit anticipated expenditures in the next reporting period. Grantees will no longer have an opportunity to submit an Initial Cash Request.

All grantees are required to submit financial reports to ICJIA on either a monthly or quarterly basis. Grantees who submit monthly financial reports will receive monthly reimbursements. Grantees who submit quarterly financial reports will receive quarterly reimbursements.

The ICJIA Associate Director of Grants will determine the appropriate reporting period for each grantee. That determination will take into account, among other factors, the grantee's need for payment, the grantee's capacity to submit reports, ICJIA's capacity to process the reports for payment, any applicable federal requirements, and any grant-specific requirements. Current grantees will be notified of their applicable reporting period—monthly or quarterly—no later than October 31, 2017. Grant Monitors will then reach out to grantees with the necessary paperwork and guidance on the steps for submitting those reports.

This policy applies to both state and federal grantees. Although the DOJ Grants Financial Guide applies directly to only federal grants, GATA adopts the Federal Uniform Requirements and makes those federal regulations applicable to state grants. See 30 ILCS 708/1 *et seq.* Therefore, state grants must adhere to the same “actual, immediate cash requirements” restriction for advance payments. See 2 CFR § 200.305. The DOJ Grants Financial Guide is the only guidance ICJIA has from any federal or state entity regarding how to interpret the “immediate” component of that regulation. Therefore, absent any guidance that contradicts the DOJ 10-day interpretation, the DOJ's 10-day advancement rule must inform how ICJIA applies the Federal Uniform Requirements to its state grants. As such, ICJIA will apply the same 10-day advancement restriction to both its federal and state grants.

Unfortunately, ICJIA does not have the capability to continually make 10-day advancements to its grantees. The State of Illinois does not have an electronic drawdown system and there is no mechanism through which ICJIA can streamline the payment process to make a 10-day cycle feasible. Rather, grantees must submit a financial report for ICJIA review. ICJIA then submits the necessary paperwork to the State Comptroller so that grantees can be paid via check. Given this system, regular advances are not feasible. As such, ICJIA is forced to move to a reimbursement-only payment system.

Exceptions:

There are currently two exceptions to ICJIA's reimbursement-only payment policy:

1. JAG Grantees who have established a trust fund into which they deposit advanced grant funds.

Due to particularities of the JAG grant related to allowing programmatic income and interest, JAG grant funds can be drawn down and/or paid out in a lump sum if certain requirements are met. Therefore, in circumstances where the grantee complies with those requirements, the grantee will still be eligible for advance payment. ICJIA Grant Monitors will work with JAG grantees to determine whether they are eligible for advance payment, and if so, what procedures they must follow to receive advance payment.

2. Large equipment purchases approved by ICJIA ahead of time on a case-by-case basis.

In rare instances, when a grantee is making a large equipment purchase for which it cannot afford to make the purchase without having the funds on hand in advance, ICJIA will make an advance payment no more than 10 days ahead of that purchase to facilitate the transaction. Grantees who have large equipment purchases in their approved Programmatic Budget and will require such an advance should work with their Grant Monitors to get the necessary approval ahead of time and to follow the required procedures.

Webinar:

To address questions that grantees had after receiving this letter, ICJIA hosted a Webinar on Wednesday, October 18, 2017. A recording of that webinar is now available on ICJIA's website, and all grantees should view it if they were not able to participate in the live event.

ICJIA recognizes that this policy change will result in a delay in grant payments for some grantees who are accustomed to receiving advance payment, and that such delay may cause difficulty for some or all of its affected grantees. We regret these difficulties, and will try to make ourselves available as a resource to you as you work through this. We appreciate your understanding, and look forward to working with you on ways to move forward.

Enclosure

Grant Payment Request System Certification Language:

“Declaration and Certification to the U.S. Department of Justice as to this Payment/Drawdown Request

I declare the following to the U.S. Department of Justice (DOJ), under penalty of perjury: (1) I have authority to make this certification on behalf of the award recipient; (2) I have conducted (or had conducted for me, including by the recipient’s legal counsel as appropriate) a diligent review of all award conditions that affect the recipient’s authorities and responsibilities with respect to obligation, expenditure, and drawdown of award funds, as well as all statutory and regulatory requirements pertinent to such financial actions that appear in award-related certifications and assurances; and (3) I also have conducted (or had conducted for me) a diligent review as to all other matters encompassed by this certification.

To the best of my knowledge and belief, on behalf of myself and the award recipient, I certify to DOJ, under penalty of perjury, that the following are true as of the date of this request— (1) The recipient is in compliance with all award conditions that affect the obligation, expenditure, and drawdown of award funds, as well as all related requirements that appear in the certifications and assurances for this award, specifically including any restrictions concerning obligations set out in requirements related to 8 U.S.C. § 1373 (applicable to state and local governments, which concerns communications between government agencies regarding immigration status); (2) If this request is for reimbursement: the request is accurate and complete; all obligations, expenditures, and cash receipts are supported by the requisite accounting records; and all costs included in the request are reasonable, allowable, and allocable to the award; and (3) If this request is for an advance: all obligations, expenditures, and cash receipts will be supported by the requisite accounting records; and (absent a specific statute that provides otherwise) the recipient will disburse the funds for costs that are reasonable, allowable, and allocable to the award within 10 days, or return the funds to DOJ.

I understand that, in making payment pursuant to this request, DOJ will rely upon this declaration and certification as a material representation. I also understand that a materially false, fictitious, or fraudulent statement in this declaration and certification or otherwise in this payment/drawdown request (or concealment or omission of a material fact as to either) may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the award recipient to civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812) or otherwise.”