



## Illinois Department of Commerce & Economic Opportunity

### **REMEDIES FOR NON-COMPLIANCE**

#### **Background**

The Governor's Office of Management and Budget ("GOMB") implemented the Grantee Compliance Enforcement System ("GCES" or the "System"), based on established federal law and supporting guidance, to drive compliance with grant requirements. The GCES is available on the GATA resource library at <https://gata.illinois.gov/content/dam/soi/en/web/gata/documents/archived-forms/support-legacy/gces.pdf> and outlines a statewide framework for state agencies to manage occurrences of non-compliance with grant requirements. Under this System, occurrences of grantee non-compliance should be consistently processed among state agencies. The text below provides basic information on the GCES and remedies available to State Agencies for non-compliance by grantees or other entities seeking grants from the State.

#### **Who does the GCES apply to?**

All Department of Commerce & Economic Opportunity ("DCEO") grants. The GCES applies to all grants that are subject to the Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR Part 200 ("Uniform Guidance") and the Grant Accountability and Transparency Act, 30 ILCS 708/1 *et seq.* ("GATA"). DCEO has invoked its discretion to apply the GCES to other grants not subject to federal Uniform Guidance or GATA.

#### **What is the Illinois Stop Payment List?**

The Illinois Stop Payment List, a component of the GCES, is a dynamic, centralized list that provides a snapshot of entities currently out of compliance with select grant management requirements.

A Stop Payment Status can be **temporary** or **permanent** depending on the severity of the non-compliance issue. A *temporary* Stop Payment Status will be invoked for the following occurrences of non-compliance:

1. Late performance or expense reporting.
2. Failure to clear fiscal/administrative monitoring issue(s).
3. Failure to submit a timely audit report.
4. Failure to respond to audit report or monitoring review corrective actions for deficiencies and material weaknesses.
5. Failure to submit a required refund payment or a payment missing from the payment plan.
6. A factually based discretionary issue documented by the leadership within the awarding agency.

A *permanent* Stop Payment Status will be invoked for the following:

1. Facts documented by the applicable State Agency including but not limited to:
  - a. Conviction of or civil judgment for commission of fraud or a criminal offense, violation of Federal or State antitrust statutes, commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, tax evasion, or commission of any other offense

- indicating a lack of business integrity or business honesty that seriously and directly affects present responsibility.
  - b. Violation of grant terms or a transaction so serious as to affect the integrity of the program such as a willful failure to perform in accordance with grant terms, a history of failure to perform or of unsatisfactory performance, or a willful violation of statutory or regulatory provisions or requirements applicable to a grant.
  - c. Any other cause so serious or compelling in nature that it affects present responsibilities.
2. Fraud documented by the Office of the Executive Inspector General and/or other governmental entity's investigation.

### **What impact does the Illinois Stop Payment List have on grants?**

State Agencies cannot do business with entities on the SAM.gov Exclusion List or entities on *permanent* Stop Payment Status. In addition, State Agencies cannot issue a payment or execute or modify a grant to increase funding if an entity is temporarily on the Illinois Stop Payment List, unless extenuating circumstances dictate (*e.g.*, court order, consent decree or federally mandated funding) or the requested grant modification is approved by the Agency and would allow the grantee to become compliant.

### **Is there a process before placing an organization on the Illinois Stop Payment List?**

Yes, procedures at the State Agency level are required before Stop Payment Status will be invoked. The State Agency must notify the entity in writing of the non-compliance issue. The communication will state that the entity (and its parent or child organization(s), if applicable) 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.

### **Can an entity on Stop Payment Status resolve their compliance issue?**

Entities on *permanent* Stop Payment Status cannot remediate. State Agencies cannot do business with these entities. Placement on *permanent* Stop Payment Status is indefinite.

All temporary non-compliance issues can be resolved through the applicable State Agency. Without exception, outstanding debt must be repaid or a timely payment under a repayment plan must be received, to remove a temporary Stop Payment Status. When the compliance issue is resolved, the grantee is removed from the Illinois Stop Payment List. Please note:

- Only the Agency that assigned the temporary Stop Payment Status can remove Stop Payment Status.
- The entity on Stop Payment Status must contact the State Agency that issued the temporary Stop Pay Status to resolve the non-compliance.

### **What other remedies are available to State Agencies for non-compliant grantees?**

Article XVI of the State's Uniform Grant Agreement sets forth the permitted actions by the State Agencies if a grantee does not comply with the terms and conditions of the grant agreement. These actions include but are not limited to:

- Imposing additional specific conditions on the grantee pursuant to 2 CFR 200.208 (<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-C/section-200.208> )
- Suspending or terminating the grant agreement
- Any other action permitted by 2 CFR 200.339-343 ( <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR86b76dde0e1e9dc> )

The DCEO-specific terms in Paragraph 33.1 of the Uniform Grant Agreement allow for additional remedies if DCEO suspends or terminates the agreement. State Agencies are required to follow all policies and procedures regarding non-compliance issues, including, but not limited to, the procedures set forth in the GCES.