

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1034 Session of 2020

INTRODUCED BY PHILLIPS-HILL AND MENSCH, FEBRUARY 13, 2020

SENATOR MASTRIANO, INTERGOVERNMENTAL OPERATIONS, AS AMENDED, MAY 27, 2020

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled, ~~as amended,~~ <--
2 as amended, "An act relating to the finances of the State
3 government; providing for cancer control, prevention and
4 research, for ambulatory surgical center data collection, for
5 the Joint Underwriting Association, for entertainment
6 business financial management firms, for private dam
7 financial assurance and for reinstatement of item vetoes;
8 providing for the settlement, assessment, collection, and
9 lien of taxes, bonus, and all other accounts due the
10 Commonwealth, the collection and recovery of fees and other
11 money or property due or belonging to the Commonwealth, or
12 any agency thereof, including escheated property and the
13 proceeds of its sale, the custody and disbursement or other
14 disposition of funds and securities belonging to or in the
15 possession of the Commonwealth, and the settlement of claims
16 against the Commonwealth, the resettlement of accounts and
17 appeals to the courts, refunds of moneys erroneously paid to
18 the Commonwealth, auditing the accounts of the Commonwealth
19 and all agencies thereof, of all public officers collecting
20 moneys payable to the Commonwealth, or any agency thereof,
21 and all receipts of appropriations from the Commonwealth,
22 authorizing the Commonwealth to issue tax anticipation notes
23 to defray current expenses, implementing the provisions of
24 section 7(a) of Article VIII of the Constitution of
25 Pennsylvania authorizing and restricting the incurring of
26 certain debt and imposing penalties; affecting every
27 department, board, commission, and officer of the State
28 government, every political subdivision of the State, and
29 certain officers of such subdivisions, every person,
30 association, and corporation required to pay, assess, or
31 collect taxes, or to make returns or reports under the laws
32 imposing taxes for State purposes, or to pay license fees or
33 other moneys to the Commonwealth, or any agency thereof,
34 every State depository and every debtor or creditor of the

1 Commonwealth," providing for grant oversight.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. The act of April 9, 1929 (P.L.343, No.176), known
5 as The Fiscal Code, is amended by adding an article to read:

6 ARTICLE XVIII

7 GRANT OVERSIGHT

8 SUBARTICLE A

9 PRELIMINARY PROVISIONS

10 Section 1801. Scope of article.

11 This article relates to grant oversight.

12 Section 1802. Definitions.

13 The following words and phrases when used in this article
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Commonwealth agency." Any of the following:

17 (1) The Governor's Office.

18 (2) A department, board, commission, authority or other
19 agency of the Commonwealth that is subject to the policy
20 supervision and control of the Governor.

21 (3) The Office of Lieutenant Governor.

22 (4) An independent department.

23 (5) An independent agency.

24 "Grant." As follows:

25 (1) A commitment of money and programmatic authority by
26 a Commonwealth agency serving as the grantor to an outside
27 entity for the purpose of carrying out public policy or
28 implementing program service delivery.

29 (2) The term does not include a procurement in which the
30 grantor receives specific goods or services for the grantor's

1 direct benefit or use.

2 "Grantee." An outside entity that contracts with a
3 Commonwealth agency to receive grant funding.

4 "Grantor." A Commonwealth agency administering a grant.

5 "Independent agency." As follows:

6 (1) A board, commission, authority or other agency of
7 the Commonwealth that is not subject to the policy
8 supervision and control of the Governor.

9 (2) The term does not include:

10 (i) A court or agency of the unified judicial
11 system.

12 (ii) The General Assembly or an agency of the
13 General Assembly.

14 "Independent department." Any of the following:

15 (1) The Department of the Auditor General.

16 (2) The Treasury Department.

17 (3) The Office of Attorney General.

18 (4) A board or commission of an entity under paragraph
19 (1), (2) or (3).

20 "Municipality." A county, city, borough, incorporated town
21 or township.

22 "Outside entity." As follows:

23 (1) A person that is not a Commonwealth agency.

24 (2) The term includes, but is not limited to, the
25 following:

26 (i) An individual.

27 (ii) A municipality.

28 (iii) A school district.

29 (iv) A nonprofit organization.

30 (v) A service provider.

1 "Project." An activity, program or task that is funded
2 through a grant.

3 SUBARTICLE B

4 REQUIREMENTS FOR GRANTS

5 Section 1811. Applicability.

6 This article is subject to Subarticle C.

7 Section 1812. Disclosure of additional funding sources.

8 If money for a grant is paid by a Commonwealth agency to a
9 grantee but the amount is insufficient to cover the total cost
10 of the project and other money is being sought to fully fund the
11 project, the grantee shall disclose to the Commonwealth agency
12 the additional funding sources and identify the specific grant
13 subproject or category to which Commonwealth grant money will be
14 applied.

15 Section 1813. Use of Commonwealth funds.

16 Money provided by a Commonwealth agency for a grant to a
17 grantee shall only be used after the grantee exhausts other
18 sources of funding for the project that was the subject of the
19 grant, unless the Commonwealth agency specifically waives this
20 requirement in writing.

21 Section 1814. Bonuses prohibited.

22 (a) Prohibition.--A bonus to an individual or entity may not
23 be paid with any part of grant money provided by a Commonwealth
24 agency.

25 (b) Penalty.--The payment of a bonus under subsection (a)
26 shall automatically trigger the immediate repayment of the grant
27 money.

28 Section 1815. Monitoring and reporting.

29 A grant award shall specify the following:

30 (1) Regular monitoring by the Commonwealth agency

1 providing the grant.

2 (2) Reporting by the grantee to the Commonwealth agency
3 providing the grant, at least on a semiannual basis,
4 regarding expenditures, performance and progress associated
5 with the grant.

6 Section 1816. Specific purpose.

7 Grant money that is not expended for the specific tasks for
8 which the grant was awarded shall be returned to the
9 Commonwealth, with interest, within 30 days of the final
10 closeout audit regarding the grant.

11 Section 1817. Remaining money.

12 The following shall apply to money designated for a project,
13 after the period for the grant has concluded or if the project
14 has been completed:

15 (1) If a grantee obtains money from a funding source
16 other than a Commonwealth agency, after the payment of grant
17 money by the Commonwealth agency, and if money paid by the
18 Commonwealth agency remains unspent, the grantee shall
19 reimburse the Commonwealth an amount equal to the money
20 received from the other funding source, up to the amount of
21 the grant provided by the Commonwealth agency, with interest.

22 (2) ~~If~~ EXCEPT AS PROVIDED UNDER THE REDEVELOPMENT <--
23 ASSISTANCE CAPITAL PROGRAM, IF a grantee obtains money from a
24 funding source other than a Commonwealth agency and that
25 money remains unspent, the grantee shall pay the Commonwealth
26 that unspent amount as a reimbursement of the grant money
27 provided by the Commonwealth agency, up to the amount of the
28 grant provided by the Commonwealth agency, with interest.

29 SUBARTICLE C

30 COMPETITIVE GRANTS

1 Section 1821. Scope of subarticle.

2 (a) Competitive application process.--This subarticle shall
3 apply to grants awarded by a Commonwealth agency through a
4 competitive application process.

5 (b) Excluded entities.--This subarticle shall not apply to
6 the following:

7 (1) A municipality.

8 (2) A school district.

9 (3) A community college.

10 (4) An institution within the State System of Higher
11 Education.

12 (5) A State-related university.

13 Section 1822. Contents of grant agreement.

14 An agreement underlying a grant award shall contain the
15 following:

16 (1) A statement that the grantee agrees to repay the
17 Commonwealth the balance of the grant money paid by the
18 Commonwealth agency that is not expended by the grantee for
19 the specific purpose for which the grant was awarded.

20 (2) A statement that the grantee agrees, if the grantee
21 obtains money for the project from a funding source other
22 than the Commonwealth agency after payment of the grant money
23 by the Commonwealth agency, to reimburse the Commonwealth an
24 amount equal to the money received from the other funding
25 source. The amount shall not exceed the amount of the grant
26 provided by the Commonwealth agency but shall include
27 interest.

28 (3) A statement that the grantee agrees, if the
29 Commonwealth agency determines that the grantee
30 misrepresented the grantee's efforts to obtain funding as

1 specified under section 1823(1)(ii), to repay the
2 Commonwealth the full amount of the grant plus a 10% penalty
3 on the face amount of the grant.

4 (4) A statement that the grantee agrees that the
5 Commonwealth agency may set off the amount of any State tax
6 liability or other obligation of the grantee or its
7 subsidiaries to the Commonwealth against any payments due to
8 the grantee under the grant.

9 (5) Clear procedures for the Commonwealth agency to
10 enforce the agreement and obtain repayment in light of a
11 breach of the agreement or failure of the grantee to comply
12 with this article.

13 Section 1823. Payment to grantee.

14 A grant may not be paid by a Commonwealth agency to a grantee
15 unless:

16 (1) The grantee has demonstrated the following to the
17 satisfaction of the Commonwealth agency through written
18 documentation:

19 (i) That the grantee has exercised due diligence in
20 making reasonable efforts to obtain funding from other
21 sources for the expenses for which the grant is being
22 requested.

23 (ii) The results of the grantee's efforts under
24 subparagraph (i).

25 (iii) The projected total cost of the project that
26 is subject to the grant.

27 (2) The grantee has acted in accordance with the
28 conditions specified under section 1822(1), (2), (3) and (4).

29 Section 1824. Competitive application process.

30 Subject to 62 Pa.C.S. (relating to procurement) and unless

1 otherwise provided in enabling legislation for the allocation of
2 grants, an award of a grant by a Commonwealth agency that will
3 involve a project for construction, production, machinery,
4 equipment or services exceeding \$10,000 shall be made only after
5 a competitive application process.

6 Section 1825. Misrepresentation.

7 If a Commonwealth agency determines that a grantee
8 misrepresented the grantee's efforts to obtain funding as
9 provided under section 1823(1)(ii), the grantee shall repay the
10 Commonwealth the full amount of the grant plus a 10% penalty on
11 the face amount of the grant.

12 Section 2. This act shall apply to an agreement underlying a
13 grant award that is made on or after the effective date of this
14 act.

15 Section 3. This act shall take effect in 60 days.