

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER a: RULES

PART 41
GRANT AGREEMENT PROCEDURES (REPEALED)

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_____, effective _____.

Section 41.10 Purpose

The Capital Development Board is a State agency frequently designated to administer the distribution of grant funds. The purpose of this Part is to ensure accountability for the funds and to promote efficiency in the distribution of the funds.

Section 41.15 Applicability

This Part applies to any grant within the Capital Development Board's jurisdiction regardless of the source of the funds, the nature of the grantee, or the nature of the particular purpose of the grant. Historically, CDB has been designated as administrator of appropriated State funds from bond funds or the General Revenue Fund. Grantees have historically included units of local government, such as municipalities, school districts, and fire protection districts, and have also included private organizations, such as colleges, hospitals, and child care centers. Purposes of the grants have included construction projects, such as new buildings, landscaping, remodeling, repairs, and roads, and have also included the purchase of real estate, machinery, equipment, or furnishings.

Section 41.20 Definitions

The following definitions shall apply to this Part:

"CDB": The Capital Development Board.

"Grantor": The Capital Development Board as the agency responsible for distributing grant funds to grantees.

"Grantee": The person, organization or unit of government receiving grant funds and making procurements for the designated purpose.

"Project": The process of making procurements to accomplish the purpose of the grant.

Section 41.25 Agreements

As required by Section 4 of the Illinois Grant Funds Recovery Act [30 ILCS 705], disbursement of grant funds shall be pursuant to a written agreement, signed by CDB and the grantee, that contains provisions as set out in this Part; other provisions necessary to make a complete, legal, and binding agreement, including but not limited to certifications and assurances by the grantee; and provisions requiring the grantee to comply with all applicable law and to require such compliance in all contracts entered into for the project, including but not limited to payment of

prevailing wages on public works contracts [820 ILCS 130]. CDB may require compliance with law applicable to State contracts, including but not limited to the Illinois Procurement Code [30 ILCS 500].

Section 41.30 Document Submittals by Grantee

CDB shall require the grantee to furnish certain project-related documents acceptable to CDB prior to finalization of the grant agreement, during the term of the grant agreement, and at the conclusion of the project, upon which CDB will make determinations to ensure that the planned project is in accordance with the grant authorization and that the funds are used in accordance with law and the grant agreement. The grantee shall furnish documents identified in the grant agreement on a timely basis without further request from CDB, and shall provide further necessary documents upon CDB's request. CDB shall accept existing documents in lieu of documents generated specifically for the grant agreement, whenever possible, to reduce the grantee's burden of compliance.

Section 41.35 Reimbursement Grants

When grant funds are intended to reimburse the grantee for funds from other sources that have already been expended on the project, prior to execution of the grant agreement and the release of the grant funds to the grantee, the grantee must provide CDB with acceptable documentation of the prior expenditure of the funds, including but not limited to proof that the funds were spent on the project designated in the grant legislation.

Section 41.40 Illinois Grant Funds Recovery Act

The Illinois Grant Funds Recovery Act shall apply to all grants administered by CDB, and all grant agreements shall so state, unless the grant is an express exception stated in Section 3 of the Act.

Section 41.45 Source of Funds

Grant agreements shall state the source of the grant funds, citing the Public Act number and specific appropriation language, where applicable.

Section 41.50 Method of Disbursement

CDB shall determine the method of disbursement of funds to grantees, which may be by lump sum at a designated time, or may be made according to a grant payout schedule tied to achievement of defined project milestones. In determining the method of disbursement, CDB may consider one or more of, but will not be limited to, the following:

- a) Relevant language in the appropriation or other authorizing document;

- b) Needs of the grantee;
- c) Nature and relevant experience of the grantee;
- d) Amount of the grant;
- e) Nature of the project, including but not limited to whether the project is completely or partly finished by the time of the grant; or
- f) Whether the grant will necessarily be a reimbursement of funds already spent by the grantee.

Section 41.55 Matching Funds

Matching funds must be provided by the grantee when required by law or by the appropriation or grant authorization provided to CDB, or when the grant funds are insufficient to accomplish the completion of the project. This Section shall not be construed to prohibit grant participation in one or more phases of a planned phased project, when properly authorized.

Section 41.60 Project Procurement

Grant agreements shall state the grantee's oversight and administrative responsibilities in procuring the project, which may include entering into contracts to accomplish the procurement.

Section 41.65 Use of Grant Funds

Grant funds and identified matching funds shall be spent exclusively for the project on those costs allowed under law and the terms of the grant agreement, and shall not be spent on the grantee's administrative costs and expenses, whether incurred as an officer, employee, or on a contractual basis.

Section 41.70 Competitive Procurements

All procurements made by any grantee for the project shall be made by open and free public competition unless otherwise authorized by law applicable to a unit of local government.

Section 41.75 Grantee's Payments

The grantee shall cause to be paid all proper invoices submitted to it after procurement of the performance of any project work. All costs charged to the project shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges. For the purpose of payment, the grantee shall require an invoice

evidencing:

- a) That the work covered by the invoice has been completed in accordance with the contract and/or applicable plans and specifications as certified by the Architect/Engineer for the grantee;
- b) That the work has been accepted by the grantee;
- c) That the contractor is not in default under its contract with the grantee; and
- d) That payment is appropriate under the terms of the grant agreement.

Section 41.80 Real Estate Procurements

Real estate procured for the project shall be held in fee simple title, except that conditions or easements are permissible if they do not interfere significantly with the intended purpose of the project. Leased land will be considered by CDB, but only if the term of the lease is at least 99 years or if the term of the lease extends beyond the projected useful life of the improvement. Because improvements to leased buildings benefit the owner, grant funds cannot be spent on improvements to leased buildings unless otherwise provided by the grant appropriation.

Section 41.85 Ownership

The grantee shall have and retain title to all property, buildings, and equipment purchased with grant funds and identified matching funds and, accordingly, shall have maintenance and ultimate disposal responsibilities.

Section 41.90 Interest

Interest earned on grant funds held by the grantee shall not change the amount of the grant and shall not be a set-off on future payments of the grant funds. Unless otherwise stated in the grant agreement, interest may be used by the grantee for the project or any other capital improvement.

Section 41.95 Term of Grant Agreement

Grant agreements shall state a period of time for which the grant is valid, which may be more or less than two years. If not otherwise stated, the term of the agreement shall be two years from the date the grantee receives the grant funds.

Section 41.100 Project Inspection and Record Retention

Grantees shall permit CDB or any agent authorized by CDB to inspect the project in full at any time. Grantees shall retain all records in an orderly manner for not less than 5 years following

project completion, and shall permit CDB or any agent authorized by CDB to have full access and the right to examine and copy the records. Grantees shall require their contractors, regardless of the nature of the contract, to comply with provisions of this Section. Grant agreements may provide for electronic or microfiche retention of records in lieu of paper originals.

Section 41.105 Accounts

Grantees shall keep proper, complete and accurate accounting records and shall establish and maintain an account or a set of accounts for grant funds, except when the grant is used to reimburse the grantee for funds already spent, in accounts covered under Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation agreements, for the project in accordance with any generally accepted accounting principle.

Section 41.110 Subgrants

Grant funds dispensed by the grantee to another person or entity as a subgrantee for obligation, expenditure or use by that other person or entity for a specific purpose shall be treated as grant funds, and shall not lose their identity as State grant funds. Accordingly, those funds are subject to this Part and must be used or spent in compliance with law applicable to the grantee.

Section 41.115 Fidelity Bond

CDB may require a grantee to obtain a fidelity bond in the amount of 125% of the grant amount. In making the determination whether a bond shall be required, CDB shall consider one or more of, but will not be limited to, the following:

- a) The size of the grant;
- b) The nature of the project;
- c) Whether the grantee is a unit of government or a private entity; or
- d) The grantee's past experience in similar projects or financial matters.

Section 41.120 Construction Bonds

If the grantee does not have established procedures and contractual provisions requiring construction contractors to provide bonds, CDB may require the grantee to require that its construction contractors obtain a bid bond in the amount of 10% of the bid, a performance bond in the full amount of the bid, and a separate labor and materials payment bond in the full amount of the bid.

Section 41.125 Noncompliance

Grant funds that are spent or held in violation of law, or of a grant agreement, whether or not a violation of law, shall be repaid to CDB. If the grantee fails to comply with law or the terms of the agreement, CDB shall, after notice to grantee, terminate the grant in whole or in part, or suspend the grant and withhold further payments and prohibit the grantee from incurring additional obligations of grant funds pending the grantee's implementation of a corrective action plan that provides a strategy to correct noncompliance or a decision to terminate.

Section 41.130 Recovery of Grant Funds

All grant funds not spent or obligated within 2 years after the grantee's receipt of the funds shall be returned to CDB within 45 days. Interest earned on grant funds held by the grantee after the 2-year expiration date, or after project completion or termination, whichever comes first, shall become part of the grant principal and shall be so treated for all purposes. If, after receipt of grant funds, the grantee fails to commence the project, all grant funds and any interest earned shall be returned to CDB. If the grantee fails to return the funds, recovery shall be accomplished pursuant to provisions of the Illinois Grant Funds Recovery Act.

Section 41.135 Grant Fund Recovery Methods

In addition to administrative procedures and Attorney General action provided by the Illinois Grant Funds Recovery Act, CDB may elect to use one or more of the following methods to recover grant funds:

- a) Offset against existing grants by, or future grants to be made by, the grantor agency making the recovery;
- b) Authorize the offset from existing grants or grants to be made by other grantor agencies;
- c) 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;
- d) Initiate any debt collection method authorized by law to any private person; or
- e) Remove the grantee from any of the grantor agency's programs and forbid the grantee's participation in any future grant program of that agency for a period not to exceed 2 years.

Section 41.140 Conflicts of Interests

No officer or employee of grantee, nor any official of the locality who exercises any functions in the review or approval of the project objectives, or the carrying out of the project objectives, nor the immediate family members of any of them, shall have any financial interest, direct or indirect, in the project, the project contracts or the work to be performed, nor shall such person participate in any decision relating to any project contract that affects his interest or the interest of any corporation, association, or other organization in which he is, directly or indirectly, interested. For purposes of this Section, immediate family means spouse or significant other, child, sibling, parent, brother-in-law, sister-in-law, mother-in-law or father-in-law.

Section 41.145 State Not Liable

The grantee shall save CDB and the State of Illinois and its officers, agents and employees harmless from any and all claims, demands, and actions based upon or arising out of any services performed by itself or by its associates, employees or employers under the grant. CDB, by entering into a grant agreement, does not pledge or promise to pledge the assets of the State, nor does it promise to pay any compensation payable to the grantee or its subgrantees from any monies of the treasury of the State except such monies as shall be granted and paid to the grantee by CDB.

Section 41.150 Indemnity

The grantee shall indemnify, defend and hold harmless CDB and the State of Illinois and its officers, agents and employees from and against any and all liabilities, demands, claims, suits, and costs and expenses associated with those actions, arising out of the project or any action or non-action of the grantee, its officers, agents, employees, or contract holders. In the event any relevant demand or claim is made upon CDB, CDB will notify the grantee in writing. CDB or the State may elect to defend any such claim or demand and will be entitled to be paid all resultant costs and expenses by the grantee.

Section 41.155 Release of Funds

Upon the execution of a grant agreement, CDB will release the grant funds to the grantee in accordance with the terms of the grant agreement, provided that the funds have been appropriated or reappropriated and have been made available by the Bureau of the Budget.