

Burton, Traci

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Sent: Friday, May 10, 2024 2:19 PM
To: Burton, Traci
Cc: Zimmerman, Amy
Subject: [External] State Not-for-Profit Security Grant Program Rulemaking Comments
Attachments: Coalition 2024 NSGP-IL Rule Comments.pdf

Importance: High

Good afternoon. Enclosed please find public comments submitted on behalf of the Safeguard Illinois Communities Coalition regarding the proposed rulemaking published by IEMA-OHS on March 29, 2024, for the State Not-for-Profit Security Grant Program (29 IAC 120; 48 Ill Reg 4525).

Thank you.

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SAFEGUARD ILLINOIS COMMUNITIES COALITION
COMMENTS TO NOTICE OF PROPOSED RULEMAKING

TITLE 29: EMERGENCY SERVICES, DISASTERS, AND CIVIL DEFENSE
CHAPTER I: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER a: GENERAL ADMINISTRATION
PART 120

STATE NOT-FOR-PROFIT SECURITY GRANT PROGRAM

May 10, 2024

Introduction

The latest statistics from the FBI underscore an increasingly concerning trend in hate crimes and violent attacks, particularly against marginalized groups, with reported incidents reaching the highest levels recorded since such data began being tracked. In 2022, there were over 11,600 hate-motivated incidents, marking a troubling escalation in threats that communities across Illinois must now navigate. Such a climate not only fosters fear but also compels non-profit organizations to redirect their finite resources from essential services to enhance their security measures. The Illinois Not-for-Profit Security Grant Program (NSGP-IL) remains a pivotal initiative in supporting these organizations to bolster their defenses without compromising their crucial services to the community.

Representing a diverse coalition that spans a wide spectrum of non-profits, the Safeguard Illinois Communities Coalition, spearheaded and lead by the Jewish United Fund/Jewish Federation of Chicago, brings together 62 cultural, civic, healthcare, religious, and ethnic organizations. This includes but is not limited to organizations from Jewish, Muslim, Christian, and Buddhist communities, and those representing a multitude of racial, ethnic, and LGBTQ+ identities, all united in their dedication to the inclusion of funding for the NSGP-IL in the state's yearly operating budgets and ensuring that implementation of the NSGP-IL is navigable, straightforward, accessible, and equitable.

We commend the steps taken by IEMA-OHS to refine the rules guiding the grant's administration to reflect the requirements set out in Public Act 103-0418 from the first session of the 103rd General Assembly. These improvements from the initial emergency rules that governed the first funding cycle reflect a meaningful dialogue between IEMA-OHS and stakeholders and are pivotal in making the NSGP-IL more accessible to all non-profits, particularly for those operating on a modest scale.

As we submit our comments on the proposed rules filed on March 29th, 2024, the Coalition's objective remains clear: to advance the program's reach, facilitate ease of application, and ensure a just allocation of resources.

Below are the Coalition's comments, broken down by Section. Any suggested new language is underlined, and suggested deletions are struck-through, with an explanation following each proposed change.

Section 120.20: Eligibility

IEMA-OHS Proposed Rule Language: “c) Eligible projects shall not duplicate, in part or in whole, a project included under any awarded federal grant or in a pending federal grant application.”

Coalition Proposed Language: “c) Eligible projects shall not duplicate, in part or in whole, a project included under any awarded federal grant or in a pending federal grant application in order to ensure that funds awarded under the program are used to supplement existing federal funds and not replace (supplant) funds appropriated for the same purpose. Projects that utilize the same project category (i.e., Authorized Equipment List project category) listed under a federal grant or in a pending federal application shall be considered eligible if they are for demonstrably distinct items or activities.”

Coalition Response: The Coalition has previously communicated with IEMA-OHS about the need to reassess its interpretation of supplanting prohibitions, having sent a memo in August 2023 highlighting various concerns. In the first funding cycle, several NSGP-IL applicants saw legitimate, necessary grant project requests denied due to IEMA-OHS’ current interpretation of supplanting prohibitions. In some instances, NSGP-IL project requests which were completely distinct from projects previously awarded under the federal NSGP were disallowed.

For example, an organization applies for and is awarded \$50,000 in federal NSGP funds for bullet proof glass windows. However, this \$50,000 may not be enough to fully protect the exterior of the organization’s building from falling prey to an attack, as it may only cover the east side windows of the building. Therefore, the west side would still be vulnerable, prompting the organization to apply for the NSGP-IL to purchase more bullet-proof glass windows to continue the process of protecting their building. If the grantee utilizes federal funds dedicated to bullet-proof glass installation on the building’s east side, this should not prohibit the organization from seeking NSGP-IL funds to further enhance the remaining windows on the west side. This would be an example of legitimate supplementing, because all federally awarded funds are still being spent on their intended purpose, while state funds are being utilized to engage in further window fortification projects **in addition** to those covered by federal funds, not in place of them.

Another scenario where IEMA-OHS may be denying legitimate project requests involves disallowing any listing of projects that fall under the same AEL project category code, even if the requested products are completely distinct. For example, the AEL code “*14SW-01-WALL: Barriers: Fences; Jersey Walls*” is used in both the state and federal NSGPs. The equipment listed under this code explains that these systems are used as “*Obstacles designed to channel or halt pedestrian or vehicle-borne traffic in order to protect a physical asset or facility.*” If an organization was to apply for metal fencing from the federal NSGP to protect themselves from illegal entry onto the premises, and later determined the need to also have bollards to protect themselves from potential vehicle attacks, they are not able to apply for this project under the NSGP-IL because it falls under the same AEL category. However, fencing and bollards are demonstrably distinct items and can defend against different scenarios, and applying for one project using federal funds and the other using state funds should not be considered supplanting.

Over a dozen other states have implemented state-level NSGPs, and many appear to address this issue. One example is Maryland’s Protecting Against Hate Crimes (PAHC) Grant, which states, “*Federal*

funds must be used to supplement existing state and local funds for program activities and must not replace those funds that have been appropriated for the same purpose.” Another example can be found in the NOFO for Virginia’s Combating Hate Crimes Grant Program, which states in its “Non-Supplanting” section, “*The section is required under this grant program. The Project Administrator, or the individual who has been delegated or designated as the signing authority, must certify that the grant funds requested under this grant program will be used to supplement existing funds and will not replace (supplant) funds appropriated for the same purpose.*” (Emphasis supplied).

We strongly believe that that IEMA-OHS can easily include adequate safeguards and questions in the application materials to protect from supplanting without denying applications that appropriately supplement and/or request distinct projects than those previously awarded under a federal grant.

IEMA-OHS Proposed Rule Language: “d). Eligible Projects...3) The Applicant may request up to 5% of the total grant award for management and administration costs. Such management and administration costs shall be included in the requested grant award amount, rather than in addition to the requested amount.”

Coalition Proposed Language:

“d). Eligible Projects...3) The Applicant may request up to ~~5%~~ 10% of the total grant award for management and administration costs. Such management and administration costs shall be included in the requested grant award amount, rather than in addition to the requested amount.”

Coalition Explanation:

The Coalition believes that increasing management and administration (M&A) costs is consistent with federal law. The federal NSGP program maintains compliance with 2 CFR 200, including [2 CFR 200.414\(f\)](#) which sets out a 10% de minimis rate for federal grants--5% being provided to IEMA-OHS, and 5% provided to the nonprofit sub-awardee. OMB is currently proposing to raise the *de minimis* rate from 10 percent to 15 percent. ([88 FR 69390](#)). The state has set out intent to align with federal standards in 2 CFR 200 with the Grant Accountability and Transparency Act, including specifically on this issue in rule in [44 Ill. Adm. Code 7000.420 \(b\)\(1\)\(A\)](#). The M&A rate should be raised to at least 10% to align with these state and federal standards.

Leaving the M&A rate at 5% limits access to this program, particularly for smaller nonprofit organizations. Many small, vulnerable nonprofits do not have the financial or workforce capacity to have existing staff administer each element of this award process. Some may require consultants and/or project managers. Limiting M&A to 5% places an additional financial burden on small nonprofits that are just as vulnerable to terrorism as ones with greater staff capacity and resources.

Section 120.30: Application Requirements

Section 120.30 mostly reflects a responsive approach to the provisions of Public Act 103-0418, such as the inclusion of self-assessment tools. A few changes and additions are necessary for consistency with the Public Act and would further enhance this Section:

IEMA-OHS Proposed Rule Language: “c). On the application, applicants shall:...4) Provide a specific description of the applicant's profile, ideology, mission, and beliefs and a specific explanation of how the organization is high risk for threats, attacks, and acts of terrorism;”

Coalition Proposed Language: “c). On the application, applicants shall:...4) Provide a specific description of the applicant's profile, ideology, mission, and beliefs and a specific explanation of how the organization is high risk for threats, attacks, ~~and~~ or acts of terrorism;”

Coalition Explanation: While just a one-word change from “and” to “or”, it is important for this language to mirror what is contained in Public Act 103-0418, which uses the phrase “threats, attacks, or acts of terrorism” throughout the Act, and the rules should reflect this language.

IEMA-OHS Proposed Rule Language: “c). On the application, applicants shall:...6) Provide specific evidence and information identifying and substantiating a high risk designation, including prior or current threats, attacks, or acts of terrorism against the not-for-profit organization;”

Coalition Proposed Language: “c). On the application, applicants shall:...6) Provide specific evidence and information identifying and substantiating a high risk designation, including prior or current threats, attacks, or acts of terrorism against the not-for-profit organization or organizations closely related to the not-for-profit organization.”

Coalition Explanation: In the previous emergency rules, IEMA-OHS included an agency note that contained the portion underlined above, which offered critical guidance on the types of evidence that could substantiate risks to the Applicant. Preserving the language from the previous agency note and incorporating it into the language of the rule is important guidance for applicants as they detail evidence that substantiates the risks and threats they face.

Section 120.40: Application Submission and Notification of Grant Award

The Coalition commends IEMA-OHS for the enhancements made to the rules regarding the Notification of Funding Opportunity (NOFO), the associated communication strategies, and the timeline to submit applications in accordance with the amendments to the Public Act. In keeping with this trend towards increased transparency and accessibility, the Coalition provides additional recommendations to ensure that there is clear, actionable feedback, particularly when applications are not successful.

IEMA-OHS Proposed Rule Language: “k) Notification will be sent to the point of contact indicated in the application when final grant funding allocations have been determined.”

Coalition Proposed Language: “k) Notification will be sent to the point of contact indicated in the application when final grant funding allocations have been determined. Unsuccessful grant applicants will be provided with an individual that the applicant can contact to obtain application feedback.”

Coalition Explanation: If an applicant is unsuccessful, IEMA-OHS should be able to provide relevant feedback to interested applicants so that they have the opportunity to improve their applications for future funding cycles. Upon notification that a grant application is unsuccessful, IEMA-OHS should

provide a point of contact that can give an interested applicant information as to why the application was unsuccessful. This process is available under the federal NSGP.

Section 120.50: Grant Agreement and Payment

The Coalition remains greatly concerned with the process for obtaining advanced payments as outlined below.

IEMA-OHS Proposed Rule Language: “d). 1) For advance payments, the grantee shall submit a request as indicated in the NOFO and include the information in subsection (d)(1)(A). Approval and administration of advance payments shall be governed by subsections (d)(1)(B) through (G).

A) An Advance Payment Request Cash Budget Template (Cash Budget). Cash budgets must be signed by either the Chief Executive Officer (or equivalent) or Chief Financial Officer (or equivalent) for the grantee. The executive's signature certifies that their entity complies with the requirements set forth in 2 CFR 200.302 (Financial Management) and 44 Ill. Adm. Code 7000.120(b)(i)(A) (Advance Payments). The cash budget must demonstrate the estimated monthly cash requirements for each month of the grant performance period.

B) If advance payment is requested, prior to approval, IEMA-OHS will perform or secure an assessment to ensure compliance with the specific language of GATA and any rules adopted pursuant to GATA. If the assessment does not ensure compliance with GATA and the rules promulgated thereunder, then IEMA-OHS may deny the request for advance payment. Any grantee that has a high risk category as a result of the internal control questionnaire required by GATA shall not be approved for advance payment.

C) Upon approval by IEMA-OHS, advance payments shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the grantee in carrying out the purpose of the approved project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the grantee for project costs. Additionally, the grantee must make timely payments to contractors.

D) Upon approval for advance payment, an initial payment will be processed in an amount equal to the first three months' cash requirements as reflected in the submitted advance payment cash budget.

Coalition Proposed Language (for subsection D):

D) Upon approval for advance payments, which can be requested and disbursed quarterly, an ~~initial~~ payment will be processed in an amount equal to the ~~first three months'~~ quarterly cash requirements as reflected in the submitted advance payment cash budget.

Coalition Explanation: The Coalition remains concerned about the accessibility of this program for small non-profits with tight operating budgets who do not have sufficient funds to commence expensive projects and await reimbursement. The current advance payment process as outlined in the rules has proven to be almost completely inaccessible, as IEMA-OHS has informed the Coalition that fewer than 5 of over 150 awardees applied for and received any advance payment. The rules and

procedures to obtain advance payment are cumbersome and overly complicated. It is also not reasonable to advance only the first three months' worth of funds when this is a three-year grant performance period. Moreover, we understand that it is IEMA-OHS' intention to allow for quarterly advance payment requests, but grantees are not aware of this availability. Our proposed language clarifies this opportunity. However, IEMA-OHS materials need to ensure that this process is easy to navigate.

Alternatively, we recommend that IEMA-OHS consider also adopting a model of advance payment whereby a grantee can receive up to 25% of the total award up-front and then submit the remainder of the award costs following the standard reimbursement model. The Department of Commerce and Economic Opportunity (DCEO) implements programs whereby grantees can receive 25% of an award as a working capital advance. To ease the process for applicants and ensure the program is maximally accessible to all eligible non-profits, regardless of their size or budget, the Coalition strongly recommends that IEMA-OHS adopt a similar model whereby 25% of total award funding can be given up-front to grantees.

Conclusion

The Coalition deeply appreciates the efforts of the General Assembly, the Governor, and IEMA-OHS to enhance the security infrastructure for Illinois' nonprofits. The proposed rules demonstrate a concerted effort to address the evolving security needs of nonprofits, ensuring that organizations dedicated to serving our communities can continue their vital work amid heightened threats.

The Coalition's proposed changes are tailored to broaden the impact and reach of the program, facilitating a safer operational environment across Illinois' vibrant and diverse nonprofit sector. Organizations across the state are poised to benefit from these enhancements, gaining not only enhanced security measures but also the assurance and peace of mind that they can continue to provide uninterrupted, essential services to their communities.

For additional questions or to discuss these changes further, please contact our representatives at the Jewish United Fund/Jewish Federation of Chicago: Amy Zimmerman, Assistant Vice President for State Government Affairs, at AmyZimmerman@juf.org, or Jared Hoffman, Legislative Associate for State Government Affairs, at JaredHoffman@juf.org. We are committed to working collaboratively to ensure that every nonprofit has the resources it needs to thrive in a secure environment.

MEMBERS OF THE SAFEGUARD ILLINOIS COMMUNITIES COALITION

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