



Executive Directive 2007-11

Moratorium on State Grant Expenditures

State Budget Office

April 10, 2007



Purpose of Executive Directive 2007-11

- To help address cash flow problems by deferring expenditures until the legal deadline for payment
- To help address budget problems by identifying administrative economies and efficiencies, and by limiting expenditures to only the most essential requirements, or those required by law or written agreement
- To maintain maximum flexibility for the balance of this fiscal year to deal with these two problems





How to Distinguish a Grant From a Contract



A contract...

- Has a written agreement with terms and conditions
- Purchases goods or services for the direct benefit of the state or the state's clients
- Imposes conditions or limitations on how the state funds can be spent

A grant...

- May or may not have a written agreement
- Provides funds for the benefit of the grant recipient or its clients
- Generally allows the grant recipient fairly broad discretion about how the funds can be spent



Executive Directive 2007-11 applies to...

- All grants paid by the state, regardless of funding source
- Proposed new grants
- Existing grants previously authorized but not yet fully expended
- The proposed renewal, extension or reauthorization of a grant



But not to: Grants received by the state, unless subsequently paid out by the state to a grant recipient



Expenditures are allowed from grants impacted by the Directive if they meet one or more of the following conditions...

- An expenditure is required by legal mandate, federal mandate, or court order
- An expenditure is necessary to protect the health, safety, or welfare of Michigan citizens or visitors
- An expenditure is necessary to produce budgetary savings or to protect existing state revenue or secure additional state revenue
- An expenditure will provide a financial incentive for the retention or creation of jobs in Michigan





What does “legal mandate, federal mandate, or court order” mean?

- If there is a specific provision in state or federal law explicitly requiring payment to the specified grantee, then the payment must be made; or
- If there is a mandatory earmark to a specific entity within a budget bill, then the payment must be made

For example:

- A line item in the budget bill which specifically names the grantee is a legal mandate



But...

- Boilerplate language which allows, but does not require, payment to a grantee is not a legal mandate



What does “necessary to protect the health, safety or welfare of citizens or visitors” mean?

There must be a direct correlation between the grant payment and the health, safety or welfare of residents. For example:



- Grants to domestic violence shelters for direct services to victims of violence meet this definition

But...

- Grants to agencies to conduct workshops on interviewing techniques generally would not meet this definition



When is a grant “necessary to produce budgetary savings or to protect state revenue”?

There must be a direct correlation between the grant expenditure and budget savings or state revenues.

For example:

- Grants to local friends of the court to collect child support revenues would qualify



But...

- Grants to organizations to upgrade information technology equipment or software to improve efficiencies generally would not qualify



What kinds of grants qualify under the “retention or creation of jobs” exception?

The grant must be directly related to the creation or retention of jobs, usually including specific performance indicators or job creation/retention benchmarks.

For example:

- Economic development job training grants would qualify under this exception



But...

- Grants to arts and cultural organizations generally would not qualify under this exception



Who decides whether or not a grant payment meets these criteria?

- The agency director or the head of an autonomous agency may authorize grant payments for his/her agency
- The State Budget Office shall take steps to insure compliance with this Directive and may, if necessary, implement limits on grant expenditures or restrictions on the release of funds





If the agency decides that payment is allowed, what else is required?

- The agency is required to seek administrative efficiencies and economies to reduce spending to the maximum extent possible
- The agency is required to defer cash expenditures to the legal deadline for payment



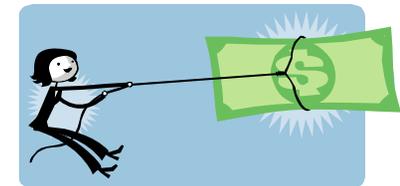
However...

- The provisions of written grant agreement must be followed unless and until the agreement is amended or the grant agreement is canceled



How can an agency achieve efficiencies and economies within a grant?

- Look for administrative efficiencies within the grant agency (e.g., reduce allowable overhead, travel or training costs, etc.)
- Limit spending to only the amounts that are absolutely necessary to achieve the overall purpose of the grant (e.g., consider reducing the number of clients to be served or the number of service sites)
- Avoid paying a grantee for things that we would not pay for a state agency/employee (e.g., out-of-state travel, conferences, equipment, etc.)
- Avoid advance payments
- Amend the grant agreement if possible to achieve economies and efficiencies





What is the legal deadline for payments?

Generally, payments for goods and services are due 45 days after receipt of the bill unless:



- ✓ A different payment date is specified in law;
- ✓ A different payment date is specified in a written grant agreement; or
- ✓ The state receives a discount for early payment

NOTE: Agencies should seek legal advice if there are questions about the legal deadline for specific grant payments



What if a grant does not meet any of the exceptions in Executive Directive 2007-11?

- Expenditures should be delayed or deferred
- Potential cancellation of the grant should be discussed with the State Budget Office



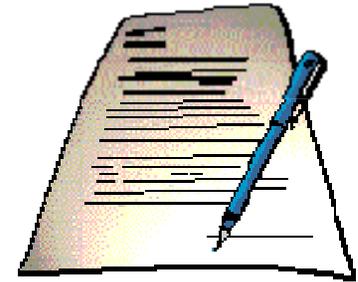
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Other Requirements

- No new grants should be issued without State Budget Office approval
- Unspent grant funds should not be redistributed to other grantees
- No grant agreement should extend beyond 9/30/2007
- By April 20, each agency is required to give the State Budget Office an inventory of all grants and, if payment is to be released, the exception under which payment is allowed (standard inventory format to be provided)





Types of Payments Which Are Not Considered To Be Grants Under Executive Directive 2007-11

- Direct payments to clients (e.g., Family Independence Program, Family Subsidy Program, Unemployment Benefits)
- Medicaid provider payments
- School Aid payments
- Local Revenue Sharing payments
- Michigan Transportation Fund distributions to local road commissions
- Payments issued to a non-state agency, which subsequently distributes grant payments to others





More Types of Payments Which Are Not Considered To Be Grants Under Executive Directive 2007-11...

- Natural Resources Trust Fund payments
- Capital outlay grants
- Bond payments or debt service payments
- Payments made through the tax system (e.g., home heating credit)
- Interdepartmental grants





More Types of Payments Which Are Not Considered To Be Grants Under Executive Directive 2007-11...

- Payments which are made by the State in a fiduciary capacity (e.g., federal flow-through funds)
- Grants that are 100% federally-funded may be exempt from the Directive if the federal funds can only be spent on grants; if the state has discretion about how to spend the federal funds, then the grant is subject to the provisions of Executive Directive 2007-11





Conclusion

- Each agency is responsible for diligent enforcement of Executive Directive 2007-11
- Questions about the implementation of this Directive, or its impact on specific grants, should be referred to the State Budget Office budget liaison

