

USER MANUAL
FOR
STATE SINGLE POINT OF CONTACT PROCEDURES
IN
DELAWARE

***Review of Applications for Federal Funds
as Established by Presidential Executive Order 12372
and Delaware Executive Order 75***

***State of Delaware
Executive Department
Office of Management and Budget
Federal Aid Coordination***

July 06, 2022

PREFACE

This Manual is issued to inform applicants for federal and non-federal grant assistance of the procedures that must be followed to comply with Presidential Executive Order 12372 which, effective July 14, 1982, replaced OMB Circular A-95; state statute; and State Executive Order 75 signed by Governor Castle on August 30, 1989.

The procedures set forth in this Manual supersede all procedures previously issued. These procedures are effective July 6, 2022.

If you have questions, please call the Federal Aid and Grant Coordinator, Office of Management and Budget, in Dover, Delaware, (302) 672-5126.

BACKGROUND

In October 1968, the United States Congress passed the Intergovernmental Cooperation Act in an attempt to improve the relationships between the federal agencies and state, local and regional government entities and private agencies by requiring the coordination of planning and programming efforts. The intent of the Act is to reduce duplication of effort and avoid conflicting effort within a state and to facilitate orderly growth and development consistent with state, local and regional objectives.

The Office of Management and Budget issued Circular A-95 in July 1969, later revised to implement:

1. The provisions of Section 201 and Title IV of the Intergovernmental Cooperation Act by calling for the establishment of state, regional and metropolitan clearinghouses to aid in the coordination of projects involving federal grant dollars, providing for gubernatorial review and comment on federally required State plans, and establishing the project notification and review system which allows the Clearinghouse to review and comment on applications being made for federal dollars;
2. Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 which calls for the review of federal loan or grant requests for assistance in carrying out open-space land projects or for the planning of construction of hospitals, airports, libraries, water supply and distribution facilities, and water development and land conservation projects within a metropolitan area; and
3. Section 102(2)(C) of the National Environmental Policy Act of 1969 and regulations of the Council on Environmental Policy which call for the review and comment of certain federal or federally-assisted projects by state and local agencies responsible for environmental standards.

The Delaware State Planning Office was designated as the Delaware State Clearinghouse in September 1969 in a letter from former Governor Russell W. Peterson to Mr. Robert Mayo, Director of the Bureau of the Budget (as OMB was then called). Because of its size only one area wide clearinghouse was set up encompassing Cecil County, Maryland, New Castle County, Delaware, and Salem County, New Jersey, known as the Wilmington Metropolitan Coordinating Council (WILMAPCO). WILMAPCO still exists but its principal, remaining function from the A-95 review process is the review of highway projects. The State Planning Office was also designated as the State Central Information Reception Agency for grant award notification.

On January 7, 1970, former Governor Peterson issued Executive Order (E.O.) 19, which expanded the coverage of Circular A-95 for the State of Delaware. This E.O. calls for all State departments and agencies applying for any federal funds to follow the procedures established in Circular A-95. E.O. 20, signed by Governor Tribbitt on October 23, 1973, reiterated the provisions of E.O. 19.

In State Fiscal Year 1976, the Delaware General Assembly established the Delaware State Clearinghouse Committee (DSCC) for Federal Grant and Non-Federal Grant Coordination for the purpose of reviewing State agencies' requests for federal assistance, including requests from higher education institutions as well as private agencies and local governments whose proposals impact the State budget directly or indirectly. The DSCC membership consisted of the Chairman and the Vice-Chairman of the Joint Finance Committee (JFC), the Controller General, the State Treasurer, the Personnel Director, the Budget Director, the Director of the Office of Management, Budget and Planning (previously known as the State Planning Office), and the Secretary of the Department of Finance. The DSCC membership and responsibilities became law: Title 29, Chapter 76, Delaware Code (later amended by House Bill 640) signed into law on June 24, 1982. This law remains in effect and will be henceforth referred to, in this Manual, as the State Law for simplification. The amended law established a slightly different composition of the membership.

Governor du Pont issued E.O. 29, signed on September 6, 1977, which further expanded the responsibilities of the State Clearinghouse.

Through the years of implementation, the Circular A-95 review process was found to be cumbersome, ineffective and, in general, ignored by the federal agencies. President Reagan implemented his philosophy of "New Federalism" whereby reliance on states making their own decisions according to their particular needs was emphasized. One of the results of "New Federalism" was a complete rethinking of the A-95 review process. On July 14, 1982, President Reagan instituted the Intergovernmental Review Process of Federal Programs by E.O. 12372. The Circular A-95 rules remained in effect until federal agencies would issue new rules under the E.O.

On June 24, 1983, federal agencies published final rules implementing E.O. 12372 and listed which programs were covered under the E.O. The rules no longer referred to the State Clearinghouse but rather to a Single Point of Contact (SPOC) for each state.

On April 27, 1983, Governor du Pont signed E.O. 126 instituting the Intergovernmental Review of Federal Programs in compliance with E.O. 12372. Subsequently, Governor Castle issued E.O. 75 which remains in effect under the current administration.

PROCEDURES

I. General

The intergovernmental review should be done before an application or a request for funds is submitted to the federal agency. However, we realize that this cannot always be done and therefore will accept joint submissions.

The procedures are different whether the requests for federal funds originate from a State agency, private or local government entity.

State Agencies and Higher Education

All State agencies and higher education institutions must go through the intergovernmental review process regardless of whether the federal program is covered under the Presidential E.O.

The state law regarding "application(s) to federal ... authorities for the purpose of receiving funds ..." should be interpreted as all types of federal assistance (grants, cooperative agreements, contracts, reimbursable agreements, etc.) and whether a formal application is required or not, and whether there is a state match required or discretionary (in-kind or cash).

Private Agencies and Local Governments

Private agencies and local governments are required to go through the intergovernmental review process only for those programs covered by the Presidential E.O. Requests for proposals are usually published in the Federal Register where E.O. 12372 requirements are specified and gives information on the SPOC.

Private agencies and local governments are covered under the state law when applications for federal assistance impact directly or indirectly on the state budget (i.e., Child, Inc. is making application to the Department of Health and Human Services for a runaway youth program which requires a match. The match will come in part from the Grants-in-Aid funds received by the agency from the Delaware General Assembly). The rule applies whether the match is required or discretionary.

II. Submission

A. No applicant should forward an application to a federal agency without securing a State Application Identifier (SAI) which is an 8-digit number that should be entered on the Standard Form 424. No application should be sent to the federal agency without an SAI number. Assignment of an SAI number does not signify approval by the SPOC. The SAI should be requested by completing the online submission form that can be found at <https://budget.delaware.gov/clearinghouse/sai-request.shtml>.

- B. Applicants should forward the following items to the SPOC.
- A copy of the OMB-SF 424.
 - The Program Narrative and Budget from the grant application.
 - Items should be sent via email with the assigned SAI number in the subject line to: OMB_Clearinghouse@delaware.gov.

NOTE: This information should be sent as soon as possible after securing an SAI number.

- C. For those programs requiring a pre-application, the SPOC will assign an SAI number to the pre-application. When the federal agency has approved the pre-application and an application is submitted, the applicant will keep the same SAI number assigned to the pre-application and will submit the application to the SPOC for a final review/comment.
- D. If the application process requires a Letter of Intent (LOI) or Notification of Intent (NOI), a copy of same must be transmitted to the SPOC for information purpose.
- E. Revisions or amendments to an application must be submitted to the SPOC as they are transmitted to the federal agency. This is important, especially if the changes are made prior to the SPOC and/or DSCC review.
- F. All correspondence and documents sent to the SPOC after an SAI number has been assigned should reference the SAI number.
- G. Proposals which require review by the DSCC must be submitted to the SPOC for a 60-day review (i.e., SAI number requested in June will be reviewed by the DSCC in August, permitting timely receipt of the application).

III. Intergovernmental Review Process

A. Purpose

The general purpose of the intergovernmental review process is to:

- avoid duplication of effort in the use of federal funds;
- ensure compliance with federal and state statutes, and state and local plans;
- carry out the policies of the Administration; and
- determine impact on current and future state budgets.

B. SPOC Review

- Upon receipt of a federal grant application, the Federal Aid Coordinator reviews the documents for administrative compliance. The application is then transmitted to the respective Fiscal and Policy Analyst.
- The Fiscal and Policy Analyst will perform a comprehensive Preliminary Review (PR) of the proposal. In case of problems/concerns with the proposal, the Analyst may request a meeting with the applicant. Preferably, these concerns/problems should be resolved prior to issuing the PR or final comments.
- If problems/concerns are not resolved through working with the agency, outstanding issues may be identified in the PR. In most cases, the recommendation made by the Fiscal and Policy Analyst will be accepted and complied with by the applicant. In the case of non-compliance of federal, state or local statutes/plans, the applicant must comply.
- If the federal agency notifies the applicant that the proposal has been rejected prior to SPOC and/or DSCC review, please notify the SPOC immediately.

C. Consistency Statements

The Intergovernmental Review Process consists of ascertaining consistency with federal and state statutes and state and local policies. When reviewing a proposal, the Fiscal and Policy Analyst will evaluate the following.

1. Consider E.O. 42, signed by Governor Carney on July 23, 2020; and Delaware Strategies for State Policies and Spending, approved by the Cabinet Committee on State Planning Issues June 1, 2020.
2. Ensure the project is consistent with the policies of the Coastal Management Program (CMP). This program is run by the Department of Natural Resources and Environmental Control (DNREC), Office of the Secretary. The consistency of programs with the CMP also includes the requirements of Section 309 of the Clean Water Act.
3. Ensure the project is consistent with the State Comprehensive Outdoor Recreation Plan, a document prepared (and updated every four years) by the DNREC, Division of Parks and Recreation.
4. Ensure compliance with the general policy outlined in the Delaware Housing Consolidated Plan. This document is updated on a regular basis by the State Housing Authority.

5. Ascertain compliance with the State Agricultural Lands Preservation Policy as defined in the Agricultural Lands Preservation Act of 1981 amended by SB 68 in March 1985. This legislation is managed by the Department of Agriculture, Office of the Secretary.
6. Ensure compliance with the requirements of Title 29, Chapter 63, Subchapter 4, Section 6352(a)(6). This legislation requires that all State agencies, including public education and higher education - with the exception of the University of Delaware - which propose to purchase computer hardware and software and consultant services, as well as telecommunications equipment coordinate with the Department of Technology and Information (DTI). This requirement is applicable regardless of the source of funding. Therefore, these administrative procedures must be followed:
 - Personnel preparing a federal or non-federal grant proposal must do so in concert with the State agency person responsible for the agency's management information plan. Once the proposed purchase/lease has been approved by the agency personnel, the proposed purchase/lease should be coordinated with DTI to determine if a business case is required.
 - If the coordination is done at the developmental stage of the proposal, by the time the proposal is ready to be sent to the SPOC, the applicant should have an approved business case from DTI. If DTI has not approved the business case by the time of submission to the SPOC the application could be delayed from the DSCC review until approved.
7. Ensure compliance with Section 106 of the National Historic Preservation Act (NHPA). This federal legislation requires that applicants whose project may impact on cultural and historical resources enter into consultation early in the application process with the Delaware State Historic Preservation Officer (SHPO), Division of Historical and Cultural Affairs. The NHPA concerns the effects on proposed undertaking on a property listed in or eligible for the National Register of Historic Places.
8. Ensure compliance with Section 102(2)(C) of the National Environmental Policy Act. This statute requires that an environmental impact statement (EIS) be submitted to the Council on Environmental Quality by any federal agency whose action may significantly affect the environment. This action may include the provision of federal grant dollars for projects to be carried out by State or local agencies.

In most cases, the federal agency will require the applicant to supply the necessary EIS. The points which must be considered in the EIS are:

- the environment impact of the proposed action;
- any adverse environmental effects which cannot be avoided should the proposal be implemented;
- alternatives to the proposed action;
- the relationship between local, short-term use of man's environment and the maintenance and enhancement of long-term productivity; and
- any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

If the applicant for federal funds has been required to supply an EIS for the project, a statement covering the above points or a statement of negative declaration, indicating that there will be no significant impact, should be submitted to the SPOC along with the proposal. The SPOC will coordinate the review of the EIS with State and local agencies that have been authorized to develop and enforce environmental quality standards in Delaware.

The EIS coordination is done with DNREC, Department of Agriculture, Department of Transportation and Division of Historical and Cultural Affairs.

9. Ensure compliance with the Federal Farmland Protection Act. Rules of this act are coordinated by the Department of Agriculture on behalf of the U.S. Department of Agriculture. The intent of the statute is the protection of farmland against over development, encroachment and possible pollution impact.

D. DSCC Review

Federal Grants

- Applicants covered under the state law will be reviewed by the DSCC. The DSCC meets approximately once per month to review projects according to a prepared agenda. The SPOC provides support to the DSCC. Applicants are notified in writing of the DSCC meeting date, place and expected time of appearance.
- An applicant which is required to be present at the meeting should be prepared to answer questions regarding the project (budget, staffing, objectives, possible impact on budget, etc.). If the applicant cannot be

present, a proxy is acceptable provided the proxy is knowledgeable about the proposal. This procedure applies only for new proposals, on-going programs which require new positions, business case issues, or topics of interest to the Committee.

- The DSCC votes on the proposal by motion duly made and seconded. One of four cases will present itself:
 - The DSCC approves the proposal, as submitted.
 - The DSCC approves the proposal, conditioned upon a specific amendment.
 - The DSCC tables the proposal until the next month's meeting for a specific reason.
 - The DSCC denies the proposal. The applicant has a right to appeal to the DSCC. An understanding is established as to the concerns of the DSCC and the applicant will reappear before the DSCC at the next month's meeting with a solution to the concerns. Upon final decision by the DSCC, there is no further recourse for the applicant. When a project has been rejected by the DSCC, the applicant is not allowed to accept the funds from the federal or non-federal agency.

Block Grants

The DSCC has responsibility for holding public hearings on behalf of the General Assembly for block grants, if required by federal regulations. The public hearing is usually held in conjunction with the regular DSCC meeting.

Federal Supplemental Awards

Administrative procedures of the DSCC require that a State agency receiving a grant award in an amount of at least 30 percent above the original amount approved by the DSCC, must obtain DSCC approval for the total amount awarded. Therefore, upon receipt of notification by the federal agency that additional funds are made available, the State agency must prepare a revised proposal showing the new budget and resultant changes and submit it to the SPOC. If the federal agency requires a formal, amended proposal, it must be transmitted along with the required SPOC form.

Changes in Authorized Positions

29 Del. C. §6404(e)(2) authorizes the DSCC to consider requests from State agencies to change the total amount of authorized positions - as listed in the Budget Act - or to transfer positions from one Division to another. This applies to General Fund, Non-Appropriated Special Fund

and Appropriated Special Fund positions. This rule concerns State agencies (Merit System and Exempt positions), Public Education and DTCC positions. This also covers errors that might have been made in the printing of the Budget Act.

- To increase the number of positions

A letter must be issued by the Department/Agency Head, addressed to the Director of the Office of Management and Budget, to the attention of the Federal Aid Coordinator requesting the establishment of position(s). The number of FTE(s) must be given (.75 or .50, etc.), the title of the position, pay grade, annual salary, source of funds, justification of need and name and telephone number of a contact person in the agency who will need to attend the DSCC meeting. If the position is paid from federal funds, the name of the project and the current SAI number must be provided in the letter. Requests for General Fund positions are considered; however, only those with special merit/need are approved. The budget process is the required forum to request General Fund positions. Requests for ASF positions are also considered. Consideration is given to the need; however, the budget process is also preferred. Requests for NSF (federal and non-federal) positions are considered in terms of need, availability of funds and approval from the federal agency.

- To decrease/delete a position

A letter must be issued by the Department/Agency Head to the Director of the Office of Management and Budget, to the attention of the Federal Aid Coordinator to delete a position. The following information must be provided: the position number, title, source of funds from which the position was being paid, reason for the deletion request and name and telephone number of a contact person in the agency. The agency contact person need not appear before the DSCC for deletion of positions; however, there may be instances when agency representation may be needed.

- To transfer a position

A letter must be issued by the Department/Agency Head to the Director of the Office of Management and Budget, to the attention of the Federal Aid Coordinator requesting the transfer of the position. The following information must be given: title of the position, position number, source of funds from which the position is paid, budget unit the position is currently in and the budget unit the position will need to be transferred to; reason for the transfer; and name and telephone number of a contact person in the agency who will need to attend the DSCC meeting.

The same rule applies if the position is transferred from one Department to another.

Review of Non-Federal Grants

- The state law has given authority to the DSCC to review requests for non-federal grants from State agencies.
- A non-federal grant is defined as an application made by a State agency for a grant or award of funds which are not federal in nature. Grants that require Clearinghouse review must be in competition with other applicants and the amount must be equal to or exceed \$50,000. This definition does not apply to Grants-in-Aid legislated by the General Assembly.
- The application and SPOC form must be submitted to the Federal Aid Coordinator at the time of submission to the grantor agency and will follow the same administrative procedures as federal grants. A joint submission will be accepted.

Review of Subgrant Requests to a Private Agency from a State Agency

A State agency applying for funds under a federal program through a private agency must go through the SPOC review process. The same administrative procedures apply as for a regular federal grant request.

E. Final Letter

Final comments from the DSCC are stated in a letter signed by the Director of the Office of Management and Budget and addressed to the head of the applicant agency. Scanned copies of the letter are sent via email to the application's contact person(s). This letter applies to regular grants, block grants, State plans, and grant amendments/supplements.

IV. State Plans

The Governor is given the opportunity to review and comment on State Plans required by a federal agency as a condition for the receipt of funds. The responsibility of retaining the Governor's signature is that of the agency. The State Plan should be signed by the Governor prior to Clearinghouse submission.

The term plan is used for a variety of required documentation ranging from a statement of administrative procedures to a detailed work program that includes objectives, needs, priorities and procedures. In many cases, a plan is required for the first year of a program with amendments to be submitted in subsequent years.

V. Drug-Free Workplace

Congress passed the Drug-Free Workplace Act of 1988. Subsequently, the Office of Management and Budget published regulations in the Federal Register of January 31, 1989, outlining the requirements for State agencies. The regulations require certification from contractors and grantees that they will provide drug-free workplaces. The required certification is a precondition for receiving a contract or grant from a federal agency. The rule was effective March 18, 1989. The required certification applies to grantees and not its sub-grantees.

Each agency head may sign the certification. If a federal agency requires a certification signed by the Governor, please contact the SPOC.

State agencies which are found in violation of the Drug-Free Workplace regulations, shall be subject to one or more of the following actions:

- Suspension of payments under the grant;
- Suspension or termination of the grant; and/or
- Suspension or debarment of the grantee under the provisions of the rules.