Upcoming Changes to Grant-in-Aid Eligibility and Requirements

House Bill 190, from the 153rd General Assembly, as amended, establishes new statutory requirements governing eligibility for Delaware Grant-in-Aid funding, application documentation, allowable uses of funding, and financial accountability.

These requirements will take effect July 1, 2028, beginning with the Fiscal Year 2029 Grant-in-Aid application cycle.

Organizations that currently receive Grant-in-Aid funding, as well as organizations that may apply in the future, are encouraged to familiarize themselves with these requirements and begin preparing for compliance in advance of the effective date.

The following provides an overview of the major changes introduced by the legislation:

Eligibility Requirements

Beginning July 1, 2028, an organization must meet all of the following requirements to be eligible for Grant-in-Aid funding.

Eligible Organizations

An applicant must be one of the following:

- An incorporated nonprofit organization with IRS-recognized tax-exempt status.
- An organization operating under the umbrella of a parent organization that is an incorporated nonprofit with IRS-recognized tax-exempt status.
- A state, county, or local government agency.

Two-Year Operating Requirement

An organization must have been in operation for at least two years before applying for Grant-in-Aid. Organizations that have been operating for less than two years will not be eligible to receive Grant-in-Aid funding.

Requirement to Fund at least 50% of Operations from Other Sources

An organization must demonstrate the ability to fund at least half of its operations through revenue sources other than Grant-in-Aid.

Grant-in-Aid funding, therefore, may not represent more than half of the funding necessary to support an organization's overall operations.

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Requirements for the Nonprofit Board of Directors

Nonprofit organizations, including organizations operating under the umbrella of a nonprofit parent organization, must have an active, community-represented, volunteer Board of Directors.

The Board must do all of the following:

- Establish the organization's policies, goals, and objectives.
- Maintain minutes of regularly scheduled Board meetings and any special meetings.
- Adopt a conflict-of-interest policy for Board members.
- Adopt a whistleblower policy covering the organization's employees and volunteers, including Board members. At a minimum, the whistleblower policy must include the protections outlined in Chapter 17 of Title 19 of the Delaware Code.

Eligible Services

To qualify for Grant-in-Aid, an organization must provide a service that meets at least one of the following criteria:

- Satisfies an unmet need in the community.
- Is not duplicated by another state-supported agency.
- Complements or supplements another state-funded program.
- Provides child care for school-age children before school, after school, during the summer, or during other breaks in the school year.

Accounting and Budget Procedures

Organizations must maintain written accounting and budget procedures. These procedures must be made available upon the Controller General's request.

New Application Documentation Requirements

The legislation establishes additional documentation that organizations must submit as part of the Grant-in-Aid application process.

Community Testimonials for Current Grant-in-Aid Recipients

An organization that received Grant-in-Aid funding during the current fiscal year must submit documentation demonstrating community support in the form of testimonials from Delaware residents who benefited from services provided using Grant-in-Aid funding.

A testimonial previously submitted in support of a Grant-in-Aid application may not be reused in a subsequent application.

Financial Audit or Statements

Organizations will generally be required to submit a copy of their most recent financial audit.

The audit must:

- Have been issued within the previous three years.
- Have been completed by a Certified Public Accountant or Public Accountant.

An organization that received less than $250,000 in Grant-in-Aid funding for the current fiscal year may instead submit its most recent review or compilation of financial statements, provided the review or compilation was completed within the previous three years by a Certified Public Accountant or Public Accountant.

Alternative Documentation When an Audit, Review, or Compilation is Unavailable

A current Grant-in-Aid recipient receiving less than $250,000 that cannot provide an audit, review, or compilation must submit a statement explaining the circumstances that prevent it from meeting the requirement.

The organization must also provide any available supporting financial documentation, including:

- Profit and loss statements
- Budget materials
- Bank statements
- IRS Form 990.

Conflict of Interest Certification

Nonprofit applicants will be required to submit a signed certification confirming that each member of the organization’s Board of Directors has received a copy of the organization’s conflict of interest policy.

The organization must also provide either:

- A statement that all Board members have attested that they comply with the conflict of interest policy.
- A list of potential or perceived conflicts involving Board members, along with a statement that Board members have attested that they are either in compliance with the policy or have disclosed all potential or perceived conflicts.

Disclosure of Litigation Involving Misuse of Funds

Applicants must certify that the organization is not currently, and has never been, a defendant in litigation involving the misuse of State funds or grant funds received from any source.

If an organization cannot make that certification, it must disclose actions against the organization involving the misuse of State or grant funding.

For each action, the organization must provide:

- The court caption.
- The current status of the case.
- If applicable, the disposition of the case and the date of disposition.

The legislation requires disclosure when an organization cannot obtain certification. It does not state that the existence of such litigation automatically makes an organization ineligible for Grant-in-Aid.

Restrictions on the Use of Grant-in-Aid Funding

The legislation also establishes specific purposes for which Grant-in-Aid funding may not be used.

Grant-in-Aid funding may not be used for:

- The purchase of capital equipment.
- The relocation, rehabilitation, renovation, or purchase of buildings.
- Payment of any portion of an elected official's salary or benefits.
- Political campaigns or partisan political purposes.
- Hiring lobbyists or purchasing other lobbying services.
- Activities, programs, or services benefiting individuals who do not reside in Delaware.
- Child care services other than qualifying before-school, after-school, summer, or school-break child care for school-age children.

Organizations should ensure that Grant-in-Aid expenditures are clearly associated with an eligible purpose and consistent with the appropriation approved by the General Assembly.

Quarterly Payments

Grant-in-Aid appropriations will continue to be paid to organizations in quarterly installments.

Financial and Performance Audits

The Controller General is authorized to contract for or conduct a performance or financial audit of the receipt, handling, or expenditure of Grant-in-Aid funding by an organization that is not a State agency.

Generally, such an audit may not include an organization's funds from other sources. However, other funds may be included when Grant-in-Aid funding has been commingled with those funds in a manner that requires the other funds to be audited.

Organizations should therefore maintain appropriate financial records and controls to ensure Grant-in-Aid funds are properly accounted for.

When Grant-in-Aid Payments May Be Delayed or Withheld

The Controller General may delay or withhold a Grant-in-Aid installment payment if an organization:

- Fails to submit a required quarterly statement of expenditures.
- Uses Grant-in-Aid funding for purposes that were not included in the appropriation approved by the General Assembly.
- Uses Grant-in-Aid funding for a purpose specifically prohibited by law.
- Ceases operations or is no longer providing some or all of the programs or services for which the Grant-in-Aid funding was appropriated.

Repayment of Grant-in-Aid Funding

An organization may be required to repay Grant-in-Aid funding that has already been disbursed if the Controller General, in consultation with the Chair and Co-Chair of the Joint Finance Committee, determines that the organization:

- Misused the Grant-in-Aid funding.
- Failed to provide some or all of the programs or services for which the funding was appropriated.

When Do These Changes Take Effect?

The new statutory requirements established by House Bill 190, as amended, take effect July 1, 2028.

Organizations interested in applying for Grant-in-Aid are encouraged to begin reviewing their governance policies, financial records, accounting procedures, and other organizational documentation well in advance of the effective date.

Preparing for the New Requirements

Although the requirements do not take effect until July 1, 2028, organizations may wish to begin preparing now for the Fiscal Year 2029 Grant-in-Aid Application cycle. In particular, nonprofit organizations should consider reviewing whether they:

- Have been in operation for at least two years.
- Can demonstrate that at least 50% of their operations are funded through sources other than Grant-in-Aid.
- Have an active, community-represented, volunteer Board of Directors.
- Maintain minutes of regular and special Board meetings.
- Have adopted conflict-of-interest and whistleblower policies meeting the statutory requirements.
- Maintain written accounting and budget procedures.
- Have an audit, review, or compilation of financial statements that will satisfy the applicable requirements.
- Have procedures for identifying and disclosing potential or perceived Board conflicts of interest.
- Can appropriately account for the expenditure of Grant-in-Aid funds.
- Are prepared to provide the certifications, disclosures, financial documentation, and community testimonials required as part of the application process.

Additional guidance on implementing these requirements, along with any corresponding changes to the Grant-in-Aid application process, will be provided before the start of the Fiscal Year 2029 Grant-in-Aid application cycle.