

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 127

(Senator Kagan)

Budget and Taxation

Health and Government Operations

State Government - Grants and Contracts - Reimbursement of Indirect Costs

This emergency bill repeals a requirement that a State grant or contract – funded wholly by State funds, or with a combination of State and other nonfederal funds, and awarded to a nonprofit organization that has not negotiated and received a specified indirect cost rate – allow the nonprofit organization to reimburse indirect costs at a rate equal to at least 10%. Instead, a nonprofit organization may reimburse indirect costs at the greater of the *de minimis* rate established in specified federal regulations (currently 15%) or 15%.

Fiscal Summary

State Effect: No effect on the *total* value of State contracts and grants to nonprofit organizations. However, to the extent that nonprofit organizations currently reimburse indirect costs at 10%, they may allocate at least 5% more to indirect costs, likely with no material diminution in services. No effect on revenues.

Local Effect: Local governments that serve as pass-through entities for State grants must incorporate the higher reimbursement rate for indirect costs into their grants and contracts with nonprofit organizations, which they can do with existing resources. To the extent that local funds are commingled with State funds on some grants and contracts, nonprofit organizations can allocate at least 5% more to indirect costs, likely with no material diminution in services.

Small Business Effect: None.

Analysis

Bill Summary: The *de minimis* rate referenced in the bill is established by Subpart E of the federal Office of Management and Budget's Uniform Administrative Requirements,

Cost Principles, and Audit Requirements for Federal Awards (referred to as the “OMB Uniform Guidance” in State law). It is found in 2 CFR 200.414 and is currently set at 15%.

Current Law: Chapter 734 of 2018 required that the terms of a grant or contract for the provision of services by a nonprofit organization that is funded either wholly with State funds or with a combination of State and other nonfederal funds allow for reimbursement of indirect costs. Under Chapter 734, indirect costs must be reimbursed at the rate that the nonprofit organization has negotiated and received either (1) under a direct federal award or (2) from a nonfederal entity based on specified federal cost principles. If the nonprofit organization has not negotiated and received an indirect cost rate under a direct federal award, it must be reimbursed at a rate of at least 10% of specified costs. The requirements of Chapter 734 apply if State funds are transferred to the nonprofit organization either directly by the State or through a third party.

Chapters 640 and 641 of 2019 clarified that Chapter 734 applies only to:

- a grant or contract awarded on or after October 1, 2018;
- a multi-year grant or contract awarded before October 1, 2018, if the grant or contract remains in effect after that date and funding for the grant or contract is required to be authorized separately for each fiscal year; and
- an extension or a renewal of a grant or contract if the extension or renewal was awarded on or after July 1, 2019.

They further clarified that reimbursement is not required for indirect costs incurred under a multi-year grant or contract during any fiscal year that begins before July 1, 2019.

Additional Comments: Some State agencies advise that they already incorporate the OMB Uniform Guidance into their grant agreements, so some nonprofit organizations will experience no effect.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 300 (Delegate Kerr, *et al.*) - Health and Government Operations.

Information Source(s): Board of Public Works; Department of Budget and Management; Department of Commerce; Department of General Services; Department of Housing and Community Development; Department of Human Services; Department of Information

Technology; Department of Juvenile Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of Service and Civic Innovation; Department of State Police; Department of Veterans and Military Families; Maryland Department of Aging; Maryland Department of Agriculture; Maryland Department of Disabilities; Maryland Department of Emergency Management; Maryland Department of Health; Maryland Department of Labor; Maryland Department of Planning; Maryland Institute for Emergency Medical Services Systems; Maryland Municipal League; Maryland State Lottery and Gaming Control Agency; Department of Legislative Services

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