



Maryland
DEPARTMENT OF PLANNING
MARYLAND HISTORICAL TRUST

HEARING DATE: February 27, 2020

BILL NO: SB0630

COMMITTEE: Education, Health, and Environmental Affairs

POSITION: Letter of Information with Amendments

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TITLE:

Grant Applications and Reporting – Uniform Forms and Requirements

BILL ANALYSIS:

SB0630, cross filed with HB 1539, establishes a 15-member "Maryland Efficient Grant Application Council" to be chaired by the Director of the Governor's Grants Office. Following consultation with stakeholders, the Council is to make recommendations to the Governor's Grants Office and Board of Public Works (BPW) on the creation of the following materials to be used by all grant making agencies in the state: 1) a uniform grant application; 2) uniform financial controls and reporting requirements; and 3) uniform progress reporting requirements.

The bill requires that BPW adopt by July 1, 2021 a uniform application, financial controls and reporting requirements based on the Council recommendations which are, to the greatest extent practicable, consistent with the Uniform Guidance adopted by the federal Office of Management and Budget. By July 1, 2022, BPW must adopt Parts A – E of the Office of Management and Budget (OMB) Uniform Guidance and by July 1, 2024, BPW must adopt all of the OMB Uniform Guidance.

The bill goes on to require that on or after July 1, 2022, all state or local entities awarding state or federal grant funds must follow the uniform application, requirements and guidance as adopted by BPW. On or after July 1, 2024, all state or local entities awarding state or federal grant funds must follow the entirety of the OMB Uniform Guidance

State or local agencies that administer grant programs may apply for an exception to these requirements if they can be shown to conflict with applicable federal requirements or pose an undue burden on a grant-making agency, grant applicant, or grant recipient when applied to a particular grant program. The bill requires that the BPW adopt regulations guiding the consideration and granting of such exception requests. The requirements of the bill would supersede any conflicting State regulations regarding requirements for grant applications, financial controls and reporting or progress reporting.

The bill also requires that each state grant-making agency appoint a Chief Accountability Officer to liaise with the Council and oversee implementation by Oct. 1, 2020.

POSITION AND RATIONALE:

The Maryland Historical Trust (MHT) has considerable grants management experience through its long history of administering the Maryland Heritage Areas Authority (MHAA) Grant Program, the African American Heritage Preservation Grant Program, the Capital and Non-Capital Historic Preservation Grant Programs, and the federal Certified Local Government Subgrant Program. Grants awarded under these programs are made only to nonprofit organizations and government entities and are capped at \$100,000. In FY19 alone, MHT administered over \$7 million in funds awarded as grants to 149 nonprofit organizations and local governments of varying sizes across the state.

Over the past few years, MHT and MHAA have been working to streamline and simplify grant processes, to make them more consistent across programs, and to remove barriers for applicants. The agency has been working to increase equity, accessibility and transparency for program users. The provisions of this bill, which focuses solely on large, multi-million-dollar projects, **ignores** the needs and characteristics of the small nonprofits and local governments that MHT and MHAA primarily serve.

As drafted, SB630 would create significantly **more bureaucracy** at a time when MHT's grant programs are trying to reduce paperwork, streamline processes and remove barriers to ensure more equitable and accessible grant programs that address community needs. This bill would hinder the ability of MHT and MHAA to support small nonprofits and local governments that are the stewards of many of our historical, cultural and natural resources.

MHT has four specific concerns about the effect of this bill:

Universal Application = Longer Application

A universal grant application would prevent evaluation of the specialized types of projects funded by MHT and MHAA, particularly those focused on historical resources, because the types of questions that need to be addressed for these projects would not be included in a universal application. Universal applications generally focus on the organization and its capacity, with less focus on the specifics of the project. While a universal core application would be beneficial across the state, particularly when incorporated into a standardized software system that permits organizations to “auto-fill” organizational information across programs, there still needs to be a program specific budget and project specific questions. A standard budget form (with proscribed line items) or a standard set of questions that **do not account for the unique aspects of historical resources** would make it more difficult to evaluate whether projects align with MHT or MHAA program requirements and goals. It could result in a need for applicants to complete both the uniform application and a separate “supplemental” application or attachments that addresses program-specific information, thus doubling the workload for applicants.

Federal Funder Prejudice

The focus of this initiative, as with the development of an enterprise grants software system for the state, seems to be driven by federal funder requirements and aligning state projects with those requirements. While that makes sense for large projects that include overlapping state and federal grants, for smaller state grant projects it risks adding an entirely **new layer of bureaucracy and paperwork** that will create a burden for small organizations. This is especially clear with the requirement that the OMB’s Uniform Guidance be adopted in its entirety by 2024.

Dense OMB Guidance is Complicated and Confusing

OMB’s Uniform Guidance is a **complicated and confusing** set of rules. It is hundreds of pages long and difficult for those lacking in experience with federal grants to understand. This was evident when MHAA attempted to implement a portion of the Uniform Guidance adopted into state law under SB 1045 in 2018. The law permits nonprofits to claim 10% of a project’s “Modified Total Direct Costs” as indirect costs as part of noncapital grant funds used to provide services, calculated in accordance with the indirect cost guidelines in the Uniform Guidance. After working extensively with legal counsel to understand how the Uniform Guidance rules were to be implemented, it was determined by MHAA that it was easier to adopt a simpler, across the board 10% indirect costs allowance for non-capital grants awarded to nonprofit organizations, because the **Uniform Guidance was too difficult** for grantees to decipher. This is just one small portion of the Uniform Guidance, which, if adopted in its entirety, would make it nearly impossible for small organizations, with no professional staff, grant writers or grants managers, to wade through the dense federal requirements, which are written principally for larger, multi-million dollar projects. MHT and MHAA have experience working with numerous

stakeholders who have had to return federal grant funds because they were unable to comply with the Uniform Guidance requirements.

Exception Provision Provides No Guarantees

While the proposed bill does include the possibility of an exception for instances when the requirements would cause an undue burden for grantees and grantors, the parameters of when such an exception would be allowable are unclear. It would make sense, for example, for these uniform guidelines to only apply to large projects, over \$250,000, for example. The Uniform Guidance defines “major nonprofits” as those receiving \$10 million in federal grants annually, again emphasizing that it is designed for projects and grants on a scale far beyond that of the small grants awarded by MHT and MHAA. **One-size-fits-all will harm small organizations** that receive the vast majority of MHT and MHAA grant funding.

MHT and MHAA recommend the following amendment to the bill:

AMENDMENT No. 1

On page 5, after line 18, insert:

(3) THE REGULATIONS ADOPTED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION, AND THE REQUIREMENTS OF SUBSECTION (E) OF THIS SECTION, SHALL NOT APPLY TO:

(i) AN APPLICATION TO A STATE OR LOCAL AGENCY FOR A GRANT OF \$250,000.00 OR LESS OF STATE GRANT FUNDS; OR

(ii) A GRANT AWARDED BY A STATE OR LOCAL AGENCY OF \$250,000.00 OR LESS OF STATE GRANT FUNDS.