



DATE: January 19, 2023
COMMITTEE: Senate Budget & Taxation
BILL NO: Senate Bill 112
BILL TITLE: State Finance and Procurement – Grants – Prompt Payment Requirement
POSITION: Statement of Information

Senate Bill 112 establishes as a policy of the State that grant payments be made within 30 days of either the date the payment is due under a grant agreement or the day on which a proper invoice is received by the grant making entity. Should payment be made late, interest of 9% a year is due and accrues beginning on the 31st day.

It is the Department’s understanding that the legislation is intended to impact grants that are reimbursable in nature, which the majority of Commerce’s grants are not, but as drafted SB 112 could potentially impact non-reimbursement grants issued by Commerce.

Commerce makes every effort to provide prompt payments in all areas – procurement payments as well as grant payments – but there are factors out of the Department’s control that impact when a payment is made. Specifically, Commerce does not have the ability to directly make payment, and once a grant is processed by Commerce it is then sent to the State Treasurer for a check to be disbursed to the recipient. Delays occur at times because items need to be corrected after information is sent to Annapolis for payment, and these situations occur more often with grant recipients than with contracts/procurement vendors because those vendors are often more experienced in working with the State and its requirements.

Additionally, Commerce is typically processing a larger number of grants for payment at one time than procurement payments. Where Commerce may have a unit/program working with procurement and accounts payable staff to process payment for one contract at a time, typically when units are processing grants, they are batches of grants being processed at the same time, which can slow the process down. This increased volume may contribute to grant payments being made “late.” Additionally, the amount of grants processed each year may fluctuate, but staffing levels do not change. For example, the FY 2023 budget included an additional \$40M to be distributed in grants through the Maryland State Arts Council (MSAC). For reference, MSAC’s total annual budget is typically less than \$30M. In an average year MSAC processes about 800 grants to individual artists and art organizations – this year they are on target to process approximately 2,500. This puts a strain on MSAC staff as well as Accounts Payable staff within Commerce and results in longer timeframes from when a grant agreement is executed to when payment is received.

As noted, many grants disbursed by Commerce do not have a specified due date. Additionally, Commerce does not receive invoices; Commerce staff create invoices after grant agreements are fully executed and after requisitions/POs are created. Unlike other State grants, the grants

disbursed by Commerce are not paid as reimbursements. However, without clarification to the bill as drafted, there is a possibility that Commerce could begin receiving invoices from grantees and therefore be responsible for interest payments if delays occur. If Commerce grants are potentially subject to interest payments, the result may be a reduced availability of funds for additional grantees - limiting the ability to help assist more Marylanders.