

Utah Code -- Title 63 -- Chapter 38e -- Federal Funds Procedures

63-38e-101. Definitions.

(1) As used in this chapter:

(a) (i) "Agency" means a department, division, committee, commission, council, court, or other administrative subunit of the state.

(ii) "Agency" includes executive branch entities and judicial branch entities.

(iii) "Agency" does not mean higher education institutions or political subdivisions.

(b) (i) "Federal funds" means cash or other monies received from the United States government or from other individuals or entities for or on behalf of the United States and deposited with the state treasurer or any agency of the state.

(ii) "Federal funds" includes federal assistance and federal assistance programs, however described.

(iii) "Federal funds" does not include monies received from the United States government to reimburse the state for monies expended by the state.

(c) "Federal funds reauthorization" means the formal submission from an agency to the federal government:

(i) applying for or seeking reauthorization of federal funds; or

(ii) applying for or seeking reauthorization to participate in a federal program that will result in federal funds being transferred to an agency.

(d) "Federal funds request summary" means a document detailing:

(i) the amount of money that is being requested or is available to be received by the state from the federal government for each federal funds reauthorization or new federal funds request;

(ii) those federal funds reauthorizations and new federal funds requests that are included as part of the agency's proposed budget for the fiscal year, and the amount of those requests;

(iii) the amount of new state monies, if any, that will be required to receive the federal funds or participate in the federal program;

(iv) the number of additional permanent full-time employees, additional permanent part-time employees, or combination of additional permanent full-time employees and additional permanent part-time employees, if any, that the state estimates are needed in order to receive the federal funds or participate in the federal program; and

(v) any requirements that the state must meet as a condition for receiving the federal funds or participating in the federal program.

(e) "Federal maintenance of effort requirements" means any matching, level of effort, or earmarking requirements, as defined in Office of Management and Budget Circular A-133, Compliance Requirement G, that are imposed on an agency as a condition of receiving federal funds.

(f) "New federal funds" means:

(i) federal assistance or other federal funds that are available from the federal government and that the state is not currently receiving;

(ii) a federal assistance program or other federal program in which the state is not currently participating;

(iii) each federal funds reauthorization that would require the state, as a condition for receiving the federal funds, to:

(A) add additional permanent full-time employees, permanent part-time employees,

or combination of additional permanent full-time employees and permanent part-time employees;

(B) increase the amount of state matching funds required to receive the federal funds or participate in the federal program; or

(C) comply with new requirements in order to receive the federal funds or participate in the federal program.

(g) "New federal funds request" means the formal submission from an agency to the federal government:

(i) applying for or otherwise seeking to obtain new federal funds;

(ii) applying for or seeking to participate in a new federal program that will result in federal funds being transferred to an agency.

(h) (i) "New state monies" means monies, whether specifically appropriated by the legislature or not, that the federal government requires Utah to expend as a condition for receiving the federal funds or participating in the federal program.

(ii) "New state monies" includes monies expended to meet federal maintenance of effort requirements.

(i) "Pass-through federal funds" means federal funds provided to an agency that are distributed to local governments or private entities without being used by the agency.

(j) "State" means the state of Utah and all of its agencies, and any administrative subunits of those agencies.

(2) When this chapter describes an employee as a "permanent full-time employee" or a "permanent part-time employee," it is not intended to, and may not be construed to, affect the employee's status as an at-will employee.

63-38e-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each federal funds request.

(2) This chapter does not govern federal funds requests for:

(a) the Medical Assistance Program, commonly known as Medicaid;

(b) the Children's Health Insurance Program;

(c) the Women, Infant, and Children program;

(d) the Temporary Assistance to Needy Families program;

(e) Social Security Act monies;

(f) the Substance Abuse Prevention and Treatment program;

(g) Child Care Block grants;

(h) Food Stamp Administration and Training monies;

(i) Unemployment Insurance Operations monies;

(j) Federal Highway Administration monies;

(k) the Utah National Guard; or

(l) pass-through federal funds.

(3) The governor need not seek legislative review or approval of federal funds received by the state when the governor has declared a state of emergency and the federal funds are received to assist disaster victims under Subsection **63-5a-3(2)**.

63-38e-201. Legislative Appropriation Subcommittees to review certain federal funds reauthorizations -- Executive Appropriations review -- Legislative approval.

(1) The Governor's Office of Planning and Budget shall annually prepare and submit a federal funds request summary for each agency to the Legislative Fiscal

Analyst at the same time the governor submits the confidential draft budget under Section **63-38-2**.

(2) (a) The Legislative Fiscal Analyst shall submit a federal funds request summary for each agency to the legislative appropriations subcommittee responsible for that agency's budget for review during each annual general session.

(b) Each legislative appropriations subcommittee shall review the federal funds request summary and may:

(i) recommend that the agency accept the federal funds or participate in the federal program for the fiscal year under consideration; or

(ii) recommend that the agency not accept the federal funds or not participate in the federal program for the fiscal year under consideration.

(3) The Legislative Executive Appropriations Committee shall:

(a) review each subcommittee's recommendation;

(b) determine whether or not the agency should be authorized to accept the federal funds or participate in the federal program; and

(c) direct the Legislative Fiscal Analyst to include those federal funds and federal programs that the committee approves in the annual appropriations act for approval by the Legislature.

63-38e-202. Governor to approve certain new federal funds requests.

(1) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, an executive branch agency shall submit a federal funds request summary to the governor or the governor's designee for approval or rejection when:

(i) the state will receive total payments of \$1,000,000 or less per year if the new federal funds request is approved;

(ii) receipt of the new federal funds will require no additional permanent full-time employees, permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees; and

(iii) no new state monies will be required to match the new federal funds or to implement the new federal program for which the grant is issued.

(b) The Governor's Office of Planning and Budget shall report each new federal funds request that is approved by the governor or the governor's designee and each new federal funds request granted by the federal government to:

(i) the Legislature's Executive Appropriations Committee;

(ii) the Office of the Legislative Fiscal Analyst; and

(iii) the Office of Legislative Research and General Counsel.

(2) The governor or the governor's designee shall approve or reject each new federal funds request submitted under the authority of this section.

(3) (a) If the governor or the governor's designee approves the new federal funds request, the executive branch agency may accept the new federal funds or participate in the new federal program.

(b) If the governor or the governor's designee rejects the new federal funds request, the executive branch agency may not accept the new federal funds or participate in the new federal program.

(4) If an executive branch agency fails to obtain the governor's or the governor's designee's approval under this section, the governor may require the agency to:

(a) withdraw the new federal funds request;

(b) return the federal funds;

- (c) withdraw from the federal program; or
- (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).

63-38e-203. Judicial council to approve certain new federal funds requests.

(1) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, a judicial branch agency shall submit a federal funds request summary to the Judicial Council for its approval or rejection when:

(i) the state will receive total payments of \$1,000,000 or less per year if the new federal funds request is approved;

(ii) receipt of the new federal funds will require no additional permanent full-time employees, additional permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees; and

(iii) no new state monies will be required to match the new federal funds or to implement the new federal program for which the grant is issued.

(b) The Judicial Council shall report each new federal funds request that is approved by it and each new federal funds request granted by the federal government to:

(i) the Legislature's Executive Appropriations Committee;

(ii) the Office of the Legislative Fiscal Analyst; and

(iii) the Office of Legislative Research and General Counsel.

(2) The Judicial Council shall approve or reject each new federal funds request submitted to it under the authority of this section.

(3) (a) If the Judicial Council approves the new federal funds request, the judicial branch agency may accept the new federal funds or participate in the new federal program.

(b) If the Judicial Council rejects the new federal funds request, the judicial branch agency may not accept the new federal funds or participate in the new federal program.

(4) If a judicial branch agency fails to obtain the Judicial Council's approval under this section, the Judicial Council may require the agency to:

(a) withdraw the new federal funds request;

(b) return the federal funds;

(c) withdraw from the federal program; or

(d) any combination of Subsections (4)(a), (4)(b), and (4)(c).

63-38e-204. Legislative review and approval of certain new federal funds requests.

(1) As used in this section:

(a) "High impact federal funds request" means a new federal funds request that will or could:

(i) result in the state receiving total payments of \$10,000,000 or more per year from the federal government;

(ii) require the state to add 11 or more permanent full-time employees, 11 or more permanent part-time employees, or combination of permanent full-time and permanent part-time employees equal to 11 or more in order to receive the new federal funds or participate in the new federal program; or

(iii) require the state to expend more than \$1,000,000 of new state monies in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.

(b) "Medium impact federal funds request" means a new federal funds request that will or could:

(i) result in the state receiving total payments of more than \$1,000,000 but less than \$10,000,000 per year from the federal government;

(ii) require the state to add more than zero but less than 11 permanent full-time employees, more than zero but less than 11 permanent part-time employees, or a combination of permanent full-time employees and permanent part-time employees equal to more than zero but less than 11 in order to receive or administer the new federal funds or participate in the new federal program; or

(iii) require the state to expend \$1 to \$1,000,000 of new state monies in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.

(2) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a medium impact federal funds request, and no later than three months after submitting a medium impact federal funds request, and, where possible, before formally submitting the medium impact federal funds request, an agency shall:

(i) submit the federal funds request summary to the governor or the Judicial Council, as appropriate, for approval or rejection; and

(ii) if the governor or Judicial Council approves the new federal funds request, submit the federal funds request summary to the Legislative Executive Appropriations Committee for its review and recommendations.

(b) The Legislative Executive Appropriations Committee shall review the federal funds request summary and may:

(i) recommend that the agency accept the new federal funds;

(ii) recommend that the agency not accept the new federal funds; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the acceptance of the new federal funds.

(3) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a high impact federal funds request, and no later than three months after submitting a high impact federal funds request, and, where possible, before formally submitting the high impact federal funds request, an agency shall:

(i) submit the federal funds request summary to the governor or Judicial Council, as appropriate, for approval or rejection; and

(ii) if the governor or Judicial Council approves the new federal funds request, submit the federal funds request summary to the Legislature for its approval or rejection in an annual general session or a special session.

(b) (i) If the Legislature approves the new federal funds request, the agency may accept the new federal funds or participate in the new federal program.

(ii) If the Legislature fails to approve the new federal funds request, the agency may not accept the new federal funds or participate in the new federal program.

(c) If an agency fails to obtain the Legislature's approval under this Subsection (3):

(i) the governor or Judicial Council, as appropriate, may require the agency to withdraw the new federal funds request or refuse or return the new federal funds;

(ii) the Legislature may, if federal law allows, opt out or decline to participate in the new federal program or decline to receive the new federal funds; or

(iii) the Legislature may reduce the agency's General Fund appropriation in an amount less than, equal to, or greater than the amount of federal funds received by the agency.

