

Federal Funds Procedures Act Overview

Utah Code Sections 63J-5-101, et seq. | October 17, 2019

What is it?	Utah statutory provisions that govern the review process and approval requirements for federal funds received by the State or an agency of the state.
Who does it apply to?	Every agency of the state, including executive branch agencies, judicial branch entities, and the State Board of Education. It does not include higher education institutions or political subdivisions.
What federal funds are exempt from the Act?	<p>The Act does not govern federal funds requests for:</p> <ol style="list-style-type: none">(1) the Medical Assistance Program, commonly known as Medicaid, except for an intergovernmental transfer program; or(2) the Children's Health Insurance Program, except for an intergovernmental transfer program. <p>The governor need not seek legislative review or approval of federal funds received by the state if:</p> <ol style="list-style-type: none">(1) the governor has declared a state of emergency; and(2) the federal funds are received to assist victims of the state of emergency.
What is a new federal funds request?	<p>A request from an agency to the federal government applying for or seeking new federal funds, participation in a new federal program that includes federal funds being transferred to an agency, or a one-time TANF request.</p> <p>New federal funds includes:</p> <ol style="list-style-type: none">(1) funds or assistance from the federal government that the state is not currently receiving or that exceeds the amounts most recently approved by the Legislature by more than 25% for a grant or program that the state currently participates in;(2) a federal program that the state is not currently participating in; or(3) a one-time TANF request.
What is a federal funds reauthorization?	A request from an agency to the federal government applying for or seeking reauthorization of federal funds which the state is currently receiving or of participation in a federal program that the state is currently participating in or the period of the first year after funding or a grant has been awarded, during which federal funds are disbursed or are scheduled to be disbursed after the first year because the grant or financial award extends for more than one year.

<p>What is a federal funds request summary (FFRS)?</p>	<p>A document detailing:</p> <ol style="list-style-type: none"> (1) the amount of money requested or available from the federal government for each federal funds reauthorization or new federal funds request; (2) the reauthorizations or new requests that are part of the agency's proposed budget for the fiscal year; (3) the amount of new state money (which includes money expended for federal maintenance of effort requirements), if any, required to receive the federal funds or participate in the federal program; (4) the number of additional permanent employees (full or part-time) that the state estimates are needed to comply; (5) any requirements the state must meet to receive the federal funds or participate in the federal program; and (6) any federal maintenance of effort requirements, including any matching, level of effort, or earmarking requirements, as defined in Office of Management and Budget requirements, that are imposed on an agency as a condition of receiving federal funds.
<p>What is the review and approval process for a federal funds request during the general session (the primary review process)?</p>	<p>The Governor's Office of Management and Budget prepares and submits a FFRS for each agency to the Legislative Fiscal Analyst (LFA).</p> <p>LFA submits the FFRS for each agency to the legislative appropriations subcommittee responsible for that agency's budget for review during each annual general session.</p> <p>Each legislative appropriations subcommittee shall review the FFRS and may:</p> <ol style="list-style-type: none"> (1) recommend that the agency accept the federal funds or participate in the federal program for the fiscal year under consideration; or (2) recommend that the agency not accept the federal funds or not participate in the federal program for the fiscal year under consideration. <p>The Legislative Executive Appropriations Committee shall:</p> <ol style="list-style-type: none"> (1) review each subcommittee's recommendation; (2) determine whether or not the agency should be authorized to accept the federal funds or participate in the federal program; and (3) direct the LFA to include or exclude those federal funds and federal programs in an annual appropriations act for approval by the Legislature.

<p>What is a low impact federal funds request?</p>	<p>A new federal funds request that:</p> <ul style="list-style-type: none"> (1) the state will receive total payments of \$1,000,000 or less per year from the federal government, if approved; (2) receipt of the new federal funds will require no additional permanent employees (full or part-time); and (3) no new state money will be required to match the new federal funds or to implement the new federal program.
<p>What is the review and approval process for a low impact new federal funds request during the interim?</p>	<p>An executive branch agency submits the new federal funds request to the governor or the governor's designee. The governor approves or rejects the request.</p> <p>A judicial branch agency submits the new federal funds request to the Judicial Council for approval or rejection. The Judicial Council approves or rejects the request.</p> <p>The State Board of Education reviews each of its new federal funds requests and approves or rejects the request.</p> <p>If an executive branch agency or judicial branch agency does not obtain the required approvals, the governor or judicial council may require the agency to withdraw the new federal funds request, return the federal funds, or withdraw from the federal program.</p> <p>GOMB, the Judicial Council, or the State Board of Education is required to report to the Legislature's Executive Appropriations Committee, LFA, and the Office of Legislative Research and General Counsel (OLRGC):</p> <ul style="list-style-type: none"> (1) each new federal funds request that is approved by the governor, Judicial Council, or the State Board of Education; and (2) each new request granted by the federal government.
<p>What is a medium impact federal funds request?</p>	<p>A new federal funds request that:</p> <ul style="list-style-type: none"> (1) the state will receive total payments of more than \$1,000,000 but less than \$10,000,000 per year from the federal government; (2) requires the state to add more than 0 but less than 11 permanent employees (full or part-time); or

	(3) requires the state to expend \$1 or \$1,000,000 of new state money in a fiscal year in order to receive or administer the federal funds or program.
What is the review and approval process for a medium impact federal funds request during the interim?	<p>Before obligating the state to accept or receive new federal funds or to participate in a new federal program not approved during an annual general session, an agency shall:</p> <ol style="list-style-type: none"> (1) submit the federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, for approval or rejection; and (2) if the governor, the Judicial Council, or the State Board of Education approves the new federal funds request, submit the federal funds request summary to the Legislative Executive Appropriations Committee for its review and recommendations. <p>The Legislative Executive Appropriations Committee shall review the federal funds request summary and may:</p> <ol style="list-style-type: none"> (1) recommend that the agency accept the new federal funds; (2) recommend that the agency not accept the new federal funds; or (3) 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.
What is a high impact federal funds request?	<p>A new federal funds request that:</p> <ol style="list-style-type: none"> (1) the state will receive total payments of \$10,000,000 or more per year from the federal government; (2) requires the state to add 11 or more permanent employees (full or part-time); or (3) requires the state to expend more than \$1,000,000 of new state money in a fiscal year in order to receive or administer the federal funds or program.
What is the review and approval process for a high impact federal funds request during the interim?	<p>Before obligating the state to accept or receive new federal funds or to participate in a new federal program, an agency shall:</p> <ol style="list-style-type: none"> (1) submit the federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, for approval or rejection; and (2) if the governor, the Judicial Council, or the State Board of Education 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. <p>If the Legislature approves the new federal funds request, the agency may accept the new federal funds or participate in the new federal program.</p>



	<p>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.</p> <p>If an agency fails to comply with the procedures of this section or fails to obtain the Legislature's approval:</p> <ul style="list-style-type: none">(1) the governor, the Judicial Council, or the State Board of Education, as appropriate, may require the agency to withdraw the new federal funds request or refuse or return the new federal funds;(2) 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(3) 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.
<p>What if the federal funds award exceeds the approved appropriation amount?</p>	<p>Each agency that receives federal funds greater than the amount approved may, using those excess funds, expend up to 25% in excess of the amount approved if:</p> <ul style="list-style-type: none">(1) receipt or use of the excess federal funds will not require the addition of one or more permanent employees (full or part-time);(2) no new state money will be required to match the excess federal funds; and(3) receipt or use of the excess federal funds will not require the state to comply with new requirements or conditions in order to receive the federal funds or to participate in the federal program.
<p>What is an intergovernmental transfer program and how do the approval requirements apply?</p>	<p>An intergovernmental transfer program is a reimbursement category authorized by the Medicaid state plan or waiver authority for intergovernmental transfers, which are transfers of public funds from:</p> <ul style="list-style-type: none">(1) a local government entity to another nonfederal governmental entity; or(2) from a nonfederal, government owned health care facility regulated under Chapter 21, Health Care Facility Licensing and Inspection Act, to another nonfederal governmental entity. <p>An Intergovernmental transfer does not include the transfer of public funds from one state agency to another state agency.</p> <p>An intergovernmental transfer program under is subject to the same review provisions as a federal funds request.</p>



	<p>If an intergovernmental transfer program created after July 1, 2017, will result in the state receiving total payments of \$1,000,000 or more per year from the federal government, the intergovernmental transfer program is subject to the same review provisions as a high impact federal funds request.</p> <p>An intergovernmental transfer program created before July 1, 2017, is subject to the federal funds review process for periods after July 1, 2017.</p>
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