



# Act 2022–88

## Election Integrity Grant Program Guidance

Date: September 25, 2023

Version: 1.2

## Act 2022 – 88 Summary

Act 2022-88 (Act 88) amends the Election Code to provide an Election Integrity Grant Program (EIGP) administered by the Department of Community and Economic Development (DCED) that will distribute grant funds to counties annually to support county election administration. To obtain EIGP funding, a county must comply with requirements related to pre-canvassing, canvassing, absentee and mail-in ballot data collection, voter list maintenance, and post-election auditing.<sup>1</sup>

Act 88 also amends the Election Code to prohibit counties from soliciting, applying for, or receiving grants, gifts, funds, or donations from individuals, businesses, organizations, or any nongovernmental entity for voter registration or for the preparation, administration, or conduct of elections. ***This prohibition applies regardless of whether a county applies for or receives funding through the EIGP.*** Any person who violates this prohibition is guilty of a second-degree misdemeanor.<sup>2</sup>

Act 88 also requires additional reporting by counties. A one-time internal review and certification regarding county procedures related to approval of voter registration applications, cancellation of deceased voters, maintenance of voter lists, safekeeping of voted ballots, enforcement of voter ID requirements, and canvassing of absentee and mail-in ballots is required from all counties, regardless of whether the county applies to the EIGP program.<sup>3</sup> Additional reports must be provided by all counties expending EIGP funds in administering elections to DCED and chairs of specific legislative committees within 90 days following the date of each general, municipal, and primary election.<sup>4</sup>

Finally, Act 88 makes a technical correction to the Election Code deadline by which counties must certify the total number of registered voters prior to each primary and November election<sup>5</sup>

For answers to frequently asked questions about Act 88, please proceed to the end of the document.

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<sup>1</sup> See Article XVI-A of the Pennsylvania Election Code, Sections 1601-A through 1603-A; 25 P.S. §§ 3260.1-A through 3260.3-A.

<sup>2</sup> See Sections 107 and 1855; 25 P.S. §§ 2607 and 3556.

<sup>3</sup> See Section 1603-A; 25 P.S. § 3260.3-A.

<sup>4</sup> See Section 1602-A(h); 25 P.S. § 3260.2-A(h).

<sup>5</sup> See Section 302(m); 25 P.S. § 2642(m).

## EIGP Grant Application

The EIGP is administered by DCED. The process to apply for EIGP grant funding is similar to the process counties use to apply for other grants administered by DCED. The key differences are the eligible uses of the grants and the reporting requirements.

Counties must apply for funding between **August 1 and August 15** each year.

*Tip: DCED grants are usually managed by the chief clerk to the county commissioners or by a grant administrator in county government. Consult with this person before applying for the EIGP.*

### Amount of Funding

The amount of grant funding an individual county will receive is equal to the total amount of funding appropriated, multiplied by the quotient of the county's total number of registered voters as of the most recent primary, divided by the total number of registered voters in all counties. For example, if the total appropriation is \$45 million and your county has 100,000 registered voters of a statewide total of 8.7 million registered voters, then your county would receive approximately \$517,000 in EIGP grant funding. (The quotient of 100,000 divided by 8,700,000 is .011494, and .011494 multiplied by \$45,000,000 is \$517,230).

### Eligible Uses

A county may use EIGP grant funding for only the following eligible expenses related to administering a general, special, municipal, or primary election:

- 1) Payment of staff needed to pre-canvass and canvass mail-in ballots and absentee ballots.
- 2) Physical security and transparency costs for centralized pre-canvassing and canvassing.
- 3) Post-election procedures required under the Election Code.
- 4) List maintenance activities under 25 Pa.C.S. § 1901(b)(1) and (3) (relating to the removal of electors).
- 5) Printing of ballots.
- 6) Training costs for district election officials.
- 7) Payment of staff at polling places on Election Day.
- 8) Secure preparation, transportation, storage, and management of voting apparatuses, tabulation equipment, and required polling place materials.
- 9) Costs of county board of elections' duties related to processing voter registration applications.

*Did you know? Act 2022–66 changed the formula counties must use to calculate how many ballots to print for primary and November elections. You can find more about those requirements [here](#).*

If a county is going to use EIGP grant funds for the payment of full-time and/or temporary staff to pre-canvass and canvass absentee and mail-in ballots, the county must have a mechanism for tracking and reporting staff time spent on these specific activities. Likewise, if a county is going to use EIGP grant funds for payment of full-time and/or part-time voter registration staff, the county must have a mechanism for tracking and reporting staff time spent on the activity of processing voter registration applications.

Counties **will be required to close the grant out with the DCED** and may be required to provide supporting documentation for reported expenditures during the grant closeout process at the end of each annual grant period. Grantees should maintain all documentation for five years after the grant has been closed in accordance with their contract. More information about the closeout procedures can be found on the Department of Community and Economic Development's website at [Compliance Resources – PA Department of Community & Economic Development](#).

### Grant Agreement

Each county board of elections that receives EIGP funding must also enter into a grant agreement with DCED that includes the following county election board requirements:<sup>6</sup>

- 1) For all general, primary, and special elections:
  - a. The county shall begin pre-canvassing at 7 a.m. on Election Day and shall continue without interruption until every mail-in ballot and absentee ballot received by 7 a.m. on Election Day is pre-canvassed.
  - b. The county shall begin canvassing mail-in ballots and absentee ballots at 8 p.m. on Election Day and shall continue without interruption until every ballot has been canvassed.
  - c. **No later than 12:01 a.m.** on the day following the election, the county board of elections shall announce and post on its publicly accessible Internet website an unofficial number of absentee ballots and mail-in ballots received for the election.
- 2) Once per grant period, the county shall certify to DCED that the county has completed a voter list maintenance program under 25 Pa.C.S. § 1901(b)(1) and mailed notices required under 25 Pa.C.S. § 1901(b)(3) within the prior 12 months.

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<sup>6</sup> See Section 1602-A(j) of the Election Code; 25 P.S. § 3260.2-A(j).

- 3) The outcome of any post-election audit required under the Election Code shall be submitted with the certification to the Secretary of the Commonwealth of the results of the primary or general election under section 302(k) of the Election Code (25 P.S. § 2642k) and shall be posted on the Department of State's publicly accessible Internet website.

## Act 2022-88 Reporting Requirements

There are two separate reporting requirements outlined in Act 88, and it is important to know the differences between those two requirements. The first reporting requirement was a **one-time** certification that had to be submitted to the Department of State no later than 75 days after the effective date of Act 88 (September 24, 2022). ***This “75-Day Report” was to be completed by every county regardless of whether a county applied for or received funding through the EIGP.*** The second reporting requirement is an annual report that must be submitted to DCED and legislative leaders no later than 90 days after each primary and election by those counties that receive EIGP funding.

### The 75-Day Report

Every county had to submit a **one-time** certification to the Department of State no later than September 24, 2022, attesting to that county's compliance with various requirements of the Election Code and voter registration laws.

The county board of elections had to conduct an internal review of its election practices and certify to DOS that the county is complying with each of the following requirements:

- 1) Approval of voter registration applications under 25 Pa.C.S. § 1328(a) (relating to approval of voter registration applications).
- 2) Cancellation of deceased electors under 25 Pa.C.S. § 1505 (relating to death of a registrant).
- 3) Voter removal programs under 25 Pa.C.S. § 1901(b)(1) and (3) (relating to removal of electors). This includes the National Change of Address Program (NCOA) and the 5-Year Notice Program (5YN).
- 4) Safekeeping of voted ballots under sections 1308(a) (25 P.S. §§ 3146.8(a)) and 1113-A (25 P.S. § 3031.13) of the Election Code (related to keeping absentee and mail-in ballots, and Election Day ballots, secured until canvassing).
- 5) Enforcement of the voter identification provisions of sections 1302.2 (25 P.S. § 3146.2b) and 1302.2-D (25 P.S. § 3150.12b) of the Election Code (relating to identification for absentee and mail-in ballots).
- 6) Pre-canvassing and canvassing of absentee ballots and mail-in ballots under section 1308 of the Election Code (25 P.S. § 3146.8).

## The 90-Day Post-Election Report

**No later than 90 days after each primary or November election**, a county that received EIGP funding must report how the county used the grant funding to the following entities:

- 1) DCED
- 2) The chairperson of the State Government Committee of the Pennsylvania Senate
- 3) The minority chairperson of the State Government Committee of the Pennsylvania Senate
- 4) The chairperson of the State Government Committee of the Pennsylvania House of Representatives
- 5) The minority chairperson of the State Government Committee of the Pennsylvania House of Representatives

DOS must prescribe a form that county boards of elections must use to submit the 90-Day Post-Election Report. The form is available through DOS sources and through DCED.

## Act 2022-88 – Frequently Asked Questions

***Q. Is the Election Integrity Grant Program (EIGP) funding allotted to the counties evenly (or otherwise split) between the November election and the primary occurring during the fiscal year?***

No. The funding is an annual appropriation that a county can use for any qualifying election (primary, general, municipal, or special).

***Q. May the EIGP grant funds be used for any election- or voter-registration-related expense?***

No, the expenditures must be for only an expense under one or more of the nine separate categories contained in Act 88.

***Q. Do requirements exist for the EIGP grants?***

While the grant funds are allocated to each county based on a set formula, counties accepting the funds must agree in the grant agreement to undertake steps in the administration of elections. These are detailed in the accompanying guidance document.

***Q. Does “payment of staff needed to pre-canvass and canvass mail-in ballots and absentee ballots” in the list of eligible uses include the payment of temporary staff?***

Yes. The statute does not distinguish between full-time and temporary staff. Whether temporary or full-time, it is important to track the time staff members are working on the pre-canvass and canvass processes versus other assigned tasks.

***Q. Is compensatory time an allowable expenditure against the Election Integrity Grant Program?***

No. There is no monetary value when awarding compensation time as an alternative to paying out overtime.

***Q. Is overtime an allowable expenditure against the Election Integrity Grant Program grant?***

Yes, overtime is an allowable expenditure.

***Q. Does “secure preparation, transportation, storage and management of voting apparatuses, tabulation equipment, and required polling place materials” in the list of eligible uses include contracted vendor support costs?***

Yes, but only if those costs are incurred during the preparation, storage, and management phases. For example, payments made to a local trucking company to facilitate the delivery of election equipment and supplies to polling places is eligible but using the funding to pay periodic maintenance fees on a standard ongoing support contract may not be eligible.

***Q. What reports must counties submit?***

Counties that accept EIGP grant funds must complete and submit a report no later than 90 days after each primary or November election. Counties are required to submit the report to the Department of Community and Economic Development (DCED) and to the chairpersons of the Pennsylvania General Assembly State Government Committees (four chairs in total).<sup>7</sup>

***Q. What must the 90-day report include?***

The 90-day post-election report must capture how the grant funds were used and must confirm that the expenditures were for the identified types of expenses. Some of the categories – such as payment of staff – must also track details, such as the number of staff hours and related details.

***Q. What does the term “substantial compliance” mean with respect to clawbacks?***

With respect to “substantial compliance” regarding eligible activities, if the DCED determines that an expense is ineligible, it will provide the county the opportunity to submit other eligible activities in place of the ineligible expenditures. If the county has no

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<sup>7</sup> Act 88 also required a one-time 75-day report which was due by September 24, 2022.

other eligible expenses, the county would be required to repay the portion of expenses that were deemed ineligible. With respect to the requirements specifically directed by Act 88 to be included in the grant agreement (pre-canvassing, canvassing, etc.) or with respect to reporting requirements, DCED expects counties to make a good faith effort to comply with those requirements.

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<b>Version</b>	<b>Date</b>	<b>Description</b>
1.0	08.5.2022	Initial document release
1.1	04.5.2023	Updated to mention that funds may be used for special election costs
1.2	09.25.2023	Added reminder regarding the grant closeout process and consolidated with FAQs