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TEXAS GRANT MANAGEMENT STANDARDS

STATEWIDE PROCUREMENT DIVISION

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INTRODUCTION

The Comptroller of Public Accounts Statewide Procurement Division (SPD) publishes the Texas Grant Management Standards (TxGMS), developed under the authority of Chapter 783 of the Texas Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and Federal agencies.[1]

TxGMS, as required by Chapter 783 of the Texas Government Code, includes (1) uniform and concise language for any assurances that a local government is required to make to a state agency and (2) a compilation of standard financial management conditions that comprise generally applicable policies and procedures for the accounting, reporting, and management of funds that state agencies require local governments to follow in the administration of grants and contracts.[2] The term "assurance" refers to a statement of compliance with federal or state law that is required of a local government as a condition for the receipt of grant or contract funds.[3]

TxGMS apply only to transactions subject to Chapter 783 of the Texas Government Code. Accordingly, TxGMS is not an exhaustive compilation of every statute, rule, and policy that may pertain to a particular grant. Although TxGMS provides Uniform Assurances and Standard Financial Management Conditions, TxGMS does not provide step-by-step guidance to agencies for general grant management.

The term "grant program manager" as used in TxGMS refers to any state agency personnel who are involved in the administration of grant programs. Grant program managers are expected to have a practical understanding of the fundamental aspects of grant management and be familiar with the associated terminology. Certain key concepts and policies for grants and contracts, therefore, are provided only for the limited purpose of facilitating the use of TxGMS. Legal citations are included throughout TxGMS to provide assistance to the reader. Also, a list of acronyms and abbreviations, a glossary of terms, and additional resources are provided in Appendix 1, Appendix 2, and Appendix 3, respectively.

TxGMS is not legal advice. Agencies are expected to be knowledgeable about legal requirements within their enabling statutes and any state or federal law associated with their operations. Grant program managers are advised to seek assistance from their agency legal counsel to ensure compliance with applicable state and federal law as well as the best practices implemented by their agency.

TxGMS applies to grants and contracts that begin on or after January 1, 2022. If a state awarding agency adds funds to a grant that existed before March 1, 2021, TxGMS will apply to it from that point forward, unless the state awarding agency specifically indicates that TxGMS will not apply. TxGMS may also be applied to grants and contracts by agreement between the parties.

TxGMS supersedes the *State of Texas Uniform Grant Management Standards* (UGMS) issued by the former Texas Procurement and Support Services (TPASS) division of the Comptroller. SPD is the successor to TPASS. Consequently, any reference to TPASS in forms, templates, or other publications held by a state agency is now a reference to SPD. All published materials and informal guidance issued by TPASS are no longer current, and state agencies are directed to update and, as applicable, replace the outdated materials with the current SPD documents.

In January 2021, TxGMS was first published as Version 1.0. When modifications are made to these standards, the Version History will be revised to include a summary of the revisions. A current version of TxGMS is maintained by SPD and is available on the Comptroller's website.[4]

SPD will periodically review and update this publication. SPD may post a notification on the Comptroller's Office website of any occurrence (*e.g.*, change in law) that affects these standards prior to the formal update to TxGMS. Inquiries regarding TxGMS should be directed to SPD via email at txgms@cpa.texas.gov.

1 TEX. GOV'T CODE §§ 783.002, 783.004.

2 TEX. GOV'T CODE §§ 783.003, 783.005-006.

3 TEX. GOV'T CODE § 783.003.

4 The Comptroller's website is located at comptroller.texas.gov.

BACKGROUND

The Uniform Grant and Contract Management Act was enacted in 1981 and subsequently codified in 1991 as Chapter 783 of the Texas Government Code. The *Uniform Grant Management Standards* (UGMS), first published by the Office of the Governor in June 1982, addressed the U.S. Office of Management and Budget (OMB) Circulars A-102 (Grants and Cooperative Agreements With State and Local Governments), A-87 (Cost Principles for State, Local and Indian Tribal Governments), and A-128 (Audits of State and Local Governments). The UGMS were periodically modified over the years for consistency with various OMB circulars and conformance with state law and practices.

The administration of the Uniform Grant and Contract Management Act transferred from the Office of the Governor to the Comptroller in 2011. In 2014, the OMB streamlined the requirements of eight circulars into one consolidated set of federal guidance titled "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" commonly referred to as the *Uniform Guidance*. For federal grant programs governed by 2 CFR Part 200, TxGMS incorporates the *Uniform Guidance* and the implementing regulations of the Federal agencies.

SCOPE

Applicability to Certain Transactions

State agencies, unless specifically excluded by statute,[5] are required to use the Uniform Assurances and the Standard Financial Management Conditions, developed under Chapter 783 of the Texas Government Code, in their grants and contracts with local governments.[6] For purposes of Chapter 783 of the Texas Government Code, a "state agency" is a state board, commission, department, or office having statewide jurisdiction, but does not include a state college or university.[7] The term "local government" refers to a municipality, county, or other political subdivision of the state, but does not include a school district or other special-purpose district.[8]

Chapter 783 of the Texas Government Code, by its terms, does not apply to all grant programs. However, compliance with all or part of Chapter 783 of the Texas Government Code may be mandated by other state law. Chapter 2105 of the Texas Government Code, for instance, states that "Chapter 783 applies to agencies and providers for the purpose of block grant administration."[9]

Care should be taken when construing a statute to determine the particular entities and types of transactions governed by Chapter 783 of the Texas Government Code because the defined terms of various statutes may not be consistent.[10] By way of example, the definition for "agency" found in Chapter 2105 of the Texas Government Code is not the same as the "state agency"

[5] For example, see Section 15.008 of the Texas Water Code which provides: "The law regarding uniform grants and contract management, Chapter 783, Government Code, does not apply to a contract under Subchapter F, H, K, or P, or to a contract relating to an economically distressed area or nonborder colonia under Subchapter C." Similarly, Section 231.002(c) of the Texas Family Code provides: "The agreements or contracts between the [Title IV-D agency] and other state agencies or political subdivisions of this or another state, including a consortium of multiple states, and agreements or contracts with vendors for the delivery of program services are not subject to Chapter 771 or 783, Government Code."

[6] TEX. GOV'T CODE § 783.007(a).

[7] TEX. GOV'T CODE § 783.003.

[8] TEX. GOV'T CODE § 783.003.

[9] TEX. GOV'T CODE § 2105.008.

[10] For example, Section 32.045(c) of the Texas Health and Safety Code provides in pertinent part: "A grant awarded under this section is governed by Chapter 783, Government Code, and rules adopted under that chapter." Some statutes, on the other hand, only apply the cost provisions. For instance, Section 7.067(c) of the Texas Water Code requires that "Money used for administrative costs under this subsection must be used in accordance with Chapter 783, Government Code."

definition from Chapter 783 of the Texas Government Code.[11] Likewise, a "provider" for administering state block grants[12] comprises a larger number of entities than the local governments identified in Chapter 783 of the Texas Government Code.[13]

TxGMS, which includes the Uniform Assurances and the Standard Financial Management Conditions, may not apply to every state agency administered grant program or to all public sector financial assistance programs. TxGMS applies only to those grants and contracts governed by Chapter 783 of the Texas Government Code. Consequently, unless state law—other than Chapter 783 of the Texas Government Code—specifies compliance with Chapter 783 of the Texas Government Code, TxGMS does not apply to the following types of federal financial assistance:

- cooperative agreements,
- non-cash contributions or donations of property (including donated surplus property),
- direct appropriations,
- food commodities,
- loans,
- loan guarantees,
- interest subsidies, or
- insurance.

A determination as to whether TxGMS applies to a particular transaction involves the application of statutorily defined terms to program-specific facts. In the event of a conflict between TxGMS and applicable federal or state law, federal law generally prevails over state law and state law prevails over TxGMS. To further consistency and accountability across federal and state grant programs, some state agencies may choose to apply TxGMS by rule or contract to all entities that receive grant funds regardless of whether TxGMS is mandated by statute. Consultation with agency legal counsel, therefore, is recommended when a state agency is determining whether and to what extent the agency, grantees, subrecipients, and contractors are required to comply with TxGMS.

Authorization of Agency-Specific Variation

A state agency subject to Chapter 783 of the Texas Government Code is required to use the Uniform Assurances and the Standard Financial Management Conditions in its grants and contracts with local governments unless a federal statute or regulation or a state statute requires or specifically authorizes a variation.[14] A state agency may establish a variation from the Uniform Assurances or Standard Financial Management Conditions set forth in TxGMS only by rule in accordance with Chapter 2001 of the Texas Government Code.[15] If a state agency desires to establish a variation to the Uniform Assurances and the Standard Financial Management Conditions, the state agency must (1) state a reason for the variation along with the proposed rule, and the reason must be based on the applicable federal statute or regulation or state statute and (2) file a notice of each proposed rule that establishes a variation from Uniform Assurances or Standard Financial Management Conditions with SPD.[16]

Incorporation of Federal *Uniform Guidance* and Implementing Regulations

For federal grant programs governed by 2 CFR Part 200, TxGMS incorporates the *Uniform Guidance* and the implementing regulations of the Federal agencies that are effective on TxGMS publication date. To ensure a seamless adoption of changes to federal law and regulation, TxGMS is automatically amended to include all modifications to the *Uniform Guidance* and any associated Federal agency implementing regulations that occur subsequent to TxGMS publication date.

[11] Chapter 2105 of the Texas Government Code defines "agency" as the Health and Human Services Commission, the Department of State Health Services, the Texas Department of Housing and Community Affairs, the Texas Education Agency, the Department of Aging and Disability Services, and any other commission, board, department, or state agency designated to receive block grant funds. TEX. GOV'T CODE § 2105.001.

[12] The term "block grant" means a program resulting from the consolidation or transfer of separate federal grant programs, including federal categorical programs, so that the state determines the amounts to be allocated or the method of allocating the amounts to various agencies or programs from the combined amounts, including a program consolidated or transferred under the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35). TEX. GOV'T CODE § 2105.001.

[13] A "provider" refers to any a public or private organization that receives block grant funds or may be eligible to receive block grant funds to provide services or benefits to the public, including a council of government, a community action agency, or a private new community developer or nonprofit community association in a community originally established as a new community development program under the former Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4511 et seq.). TEX. GOV'T CODE § 2105.001.

[14] TEX. GOV'T CODE § 783.007(a).

[15] TEX. GOV'T CODE § 783.007(b).

[16] TEX. GOV'T CODE § 783.007(c)-(d).

KEY CONCEPTS – STATE AGENCY GRANTS

Grant-Making Authority

Chapter 783 of the Texas Government Code regulates the intergovernmental coordination of grant and contract management activities between certain state agencies and local governments. Chapter 783 does not authorize any state agency or local government to accept or administer grant funds. Accordingly, the authority for a particular state agency or unit of local government to apply for, receive, administer, and make grants is found in law other than Chapter 783.

Appropriated Funds

A state agency grant program may be financed by more than one source, such as state money, federal money, gifts, and donations. Grant funds, depending on the particular grant program, may be held within the State Treasury or outside the State Treasury. It is important to note that federal money deposited in the State Treasury does not become "state funds" in the sense that state law and only state law thereafter governs their disposition.[17] When the General Appropriations Act (GAA) authorizes a state agency to accept federal funds, the funds are appropriated to the receiving agency and the agency may expend the funds for the purposes for which federal grant, allocation, aid, payment, or reimbursement was made.[18]

Grants and Contracts

In the administration of state and federal grant programs, the terms "grant" and "contract" are not synonymous. The decision whether to use a grant agreement or a procurement contract to formalize the transaction between the state agency and the entity receiving the program funds depends on the nature of the parties' relationship.

For purposes of TxGMS, the term "contract" refers to the legal instrument used to enter into a procurement relationship with a contractor to acquire goods and services to carry out the project or program under a state or federal grant.[19] Unless otherwise defined by applicable Texas law, the term "grant" refers to an expenditure of funds from the State Treasury to a person or entity that does not directly provide consideration or a benefit to the State in exchange for the funds.[20] The term "grant" may also refer to a legally enforceable document tied to such an expenditure. For federal grant programs subject to the *Uniform Guidance*, a grant agreement is a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States.[21]

The state agency must make a case-by-case determination whether each transaction it makes for the disbursement of state or federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor.[22] The distinguishing characteristics of the subrecipient and contractor roles are based on the substance of the relationship and not the term used by the parties to describe their relationship.[23] It is imperative that the role of subrecipient and contractor be correctly determined for each transaction in order to ensure compliance with the laws and rules applicable to the relationship. Illustrations of the possible relationships resulting from federal grant awards and state grant awards are provided, respectively, in Appendix 4 and Appendix 5.

17 Tex. Att'y Gen. Op. No. S-100 (1953).

18 General Appropriations Act, Senate Bill 1, 87th R.S. at Article IX, Section 13.01.

19 *See generally* 2 CFR § 200.22.

20 Miscellaneous Expenditures – Grants and Honoraria policy located in eXpendit State Purchase Policies at https://fmx.cpa.texas.gov/fm/pubs/purchase/misc/?section=grants&page=grants.

21 *See generally* 2 CFR § 200.51.

22 *See generally* the Reporting Requirements for the Annual Financial Reports of State Agencies and Universities related to State Pass-Throughs at https://fmx.cpa.texas.gov/fmx/pubs/afrrptreq/pass-through/index.php?section=st-pass-through&page=st-pass-through; 2 CFR § 200.330 (distinguishing subrecipient and contractor relationships). For federal grants, a Subrecipient vs. Vendor Determination Checklist is available for state agencies on the Comptroller's website at: https://fmx.cpa.texas.gov/fmx/pubs/afrrptreq/pdf/SubrecipientvsVendorDetermination.pdf.

23 2 CFR § 200.330.

State Fiscal Management

Overview

One of the duties of the Comptroller is keeping the State's books. The Fiscal Management Division acts as the State's chief accountant. The Fiscal Management Division's general accounting duties include the maintenance of accounts to show the purposes for which expenditures are made and the provision of proper accounting controls to protect state finances. In order for the Comptroller to issue a warrant or initiate an electronic funds transfer, the agency submitting the claim must properly audit the claim and verify the payment would serve a proper public purpose. The Fiscal Management Division conducts post-payment audits of agencies' expenditures to ensure compliance with applicable laws, rules, and policies.

Information regarding state expenditures is located on the Fiscal Management Division's website, FMX.[24] FMX includes citations to relevant statutes, administrative rules, judicial decisions, and attorney general opinions. Inquiries from state agencies regarding expenditure matters may be directed to the Expenditure Assistance Section within the Fiscal Management Division at expenditure.assistance@cpa.texas.gov or (512) 475-0966.

Certain Fiscal Policies

Withholding and Offset

The Comptroller is generally prohibited from issuing payment to a person who has been properly reported to the Comptroller as being indebted to the State or having a tax delinquency. State agencies must verify a person's hold status for (1) payments made from funds outside the State Treasury, (2) payment card purchases over $500, and (3) transactions involving a written contract.[25]

State agencies must not proceed with payment from funds outside the State Treasury or payment card purchases over $500 until the warrant hold has been released, unless the payment constitutes an emergency.[26] For transactions involving a written contract, the warrant hold check must be performed not earlier than the seventh day before and not later than the date of contract execution.[27]

A state agency may not enter into a written contract with a person on warrant hold unless:

(1) the contract requires the agency's payments under the contract to be applied directly toward eliminating the person's debt or delinquency, and

(2) the requirement described in paragraph (1) specifically applies to any debt or delinquency, regardless of when it arises.[28]

Payments made through the Uniform Statewide Accounting System (USAS) are automatically checked for holds. However, for written contracts paid with funds outside the State Treasury, the state agency must manually conduct the warrant hold status check.

The Comptroller is authorized to offset state payments against a person's state debt and issue a payment to the person for any remaining amount. Disbursements of state grant funds are subject to warrant hold and may be used to offset state debt.

Payments made in whole or in part with federal funds or required by federal law, on the other hand, are exempt from the state's warrant hold program.[29] To prevent warrant offset, the paying state agency must release the warrants within 30 days of the payment date. For federal grant programs, the state agency issuing the payment should (1) review the TINS 6204 Report (Held Warrant Report for Issuing Agency) every day to identify any warrants that are on hold and issued with federal funds and (2) promptly complete the "Warrant Release or Reinstatement Request Form" for each held warrant that includes federal funds. The Catalog of Federal Domestic Assistance (CFDA) number or appropriate federal statutory reference must be provided on the warrant release form.[30]

[24] The Comptroller's FMX website is located at https://fmx.cpa.texas.gov/fmx/.

[25] Restricted Expenditures – Persons Indebted to State policy located in eXpendit State Purchase Policies posted at https://fmx.cpa.texas.gov/fm/pubs/purchase/restricted/index.php.

[26] Restricted Expenditures – Persons Indebted to State policy located in eXpendit State Purchase Policies posted at https://fmx.cpa.texas.gov/fm/pubs/purchase/restricted/index.php.

[27] TEX. GOV'T CODE § 2252.903(a).

[28] TEX. GOV'T CODE § 2252.903(b).

[29] TEX. GOV'T CODE § 403.055(i).

[30] Releasing Held Warrants – Federal Funds policy located in the TexPayment Resource Guide at https://fmx.cpa.texas.gov/fm/pubs/payment/warr_hold/index.php?s=release&p=federal.

Use of State Money or Property for Private Purposes

The Texas Constitution generally prohibits giving away state money or property or using state resources for private purposes.[31] An expenditure of public funds for a legitimate public purpose to obtain a clear public benefit, however, is not a prohibited grant of public funds,[32] as long as there are sufficient controls on the transaction to ensure that the public purpose is carried out.[33] State law also prohibits the misuse of governmental resources.[34] Examples of misuse of state money or property include the payment of gratuities and making purchases without statutory authority.[35]

Distribution of Grant Funds

Distributions of state and federal grant funds must comply with applicable laws and rules, including applicable fiscal policies. State agencies are responsible for ensuring that expenditures are not made for unauthorized purposes. Information regarding permitted and prohibited expenditures is located on the Comptroller's Fiscal Management Division website (FMX).

A disbursement of grant funds occurs either as a reimbursement or an advance. Under the reimbursement method, the grantee is repaid for money actually spent on allowable expenses. In contrast, the advance method of funding provides that grant funds are disbursed in advance of the grantee incurring expenses. A state agency must distribute appropriated grant money on a reimbursement or an as-needed basis unless:

- otherwise provided by statute, or
- the agency determines another distribution method is necessary for the purposes of the grant.[36]

For federal grant programs, state law may not apply to a particular expenditure to the extent necessary to avoid conflict with an applicable federal law or regulation.[37] In the event an expenditure is not explicitly addressed by state law, rule, or fiscal policy, the state agency's expenditure must comply with Governmental Accounting Standard Board (GASB) standards.[38]

Statewide Single Audit

Each year, the State Auditor's Office conducts a Statewide Single Audit for the State of Texas. The Statewide Single Audit both supports the annual Comprehensive Annual Financial Report (CAFR) provided to the Governor and constitutes an organization-wide audit of the State for purposes of the *Uniform Guidance*.[39]

For the federal compliance portion of the Statewide Single Audit, the State Auditor's Office audits the State's Schedule of Expenditures of Federal Awards (SEFA) in relation to the CAFR. The SEFA captures federal funds expended by state agencies. Each state agency that makes federal expenditures during the fiscal year is required to submit its federal expenditures in the SEFA web application.[40] The Comptroller prepares the SEFA by using the self-reported SEFA data. In addition, grant money passed between state agencies must be reported on the State Grant Pass-Through Schedule using the State Pass-Through Reporting (SPTR) web application. State agencies receiving Federal awards from non-state agencies may have additional obligations under the *Uniform Guidance*.[41]

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31 Tex. Const. art. III, § 51 ("Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever."); Tex. Const. art. III, § 52 ("Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever."); and Tex. Const. art. XVI, § 6 ("No appropriation for private or individual purposes shall be made, unless authorized by this Constitution.").

32 *See Edgewood Indep. Sch. Dist. v. Meno*, 917 S.W.2d 717, 740 (Tex. 1995).

33 Tex. Att'y Gen. Op. No. J-0484 (2002).

34 TEX. PENAL CODE § 39.02(a)(2).

35 Restricted Expenditures – Misuse of State Money or Property policy located in the eXpendit State Purchase Policies at https://fmx.cpa.texas.gov/fm/pubs/purchase/restricted/index.php?section=misuse&page=property_misuse.

36 Miscellaneous Expenditures – Grants and Honoraria policy located in eXpendit State Purchase Policies posted at https://fmx.cpa.texas.gov/fm/pubs/purchase/misc/?section=grants&page=grants. See generally 2 CFR §§ 200.305(b), 200.207(b)(1) for circumstances where advance payment is the default payment method for federal grant programs.

37 *See e.g.*, TEX. GOV'T CODE § 660.003(f) ("A travel expense may be paid or reimbursed according to the requirements of an applicable federal law or regulation, and this chapter does not apply to the extent necessary to avoid conflict with an applicable federal law or regulation.").

38 Texas law requires compliance with GASB Standards. TEX. GOV'T CODE §§ 321.013(b), 403.013(c). Texas also follows the requirements and guidelines provided in GASB pronouncements (statements, interpretations, technical bulletins and concepts statements). See the Reporting Requirements for the Annual Financial Reports of State Agencies and Universities related to Governmental Accounting Standards Board at https://fmx.cpa.texas.gov/fmx/pubs/afrrptreq/introduction/index.php?section=gasb&page=gasb.

39 TEX. GOV'T CODE § 403.103(c); 2 CFR Part 200, Subpart F.

40 *See generally* Reporting Requirements for the Annual Financial Reports of State Agencies and Universities related to Federal Pass-Throughs at https://fmx.cpa.texas.gov/fmx/pubs/afrrptreq/pass-through/index.php?section=pass-through&page=pass-through.

41 See Single Audit Report Package at https://fmx.cpa.texas.gov/fmx/finrpt/singleaudit/.

Statewide Cost Allocation Plan

Certain state agencies provide accounting, computing, payroll and other statewide support services on a centralized basis. To ensure that the costs for these central governmental services are accounted for appropriately, the Office of the Governor prepares a Statewide Cost Allocation Plan (SWCAP) each year that

(1) identifies the costs of providing statewide support services to each state agency;

(2) allocates to each state agency an appropriate portion of the total costs of statewide support services;

(3) identifies, to the extent possible, the amount of federally reimbursable indirect costs in each allocated portion; and

(4) develops and prescribes a billing procedure that ensures each state agency is billed for all costs allocated to the agency for which the agency is not obligated to pay another state agency under other law.[42]

The Comptroller bills each agency for the allocated portion of statewide costs based on the SWCAP. The SWCAP is also used to obtain reimbursement from the federal government for allowable costs incurred by central service agencies for services allocable to federal programs.[43]

State Ethics Laws

A state officer[44] or state employee[45] may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur an obligation of any nature that is in substantial conflict with the proper discharge of the officer or employee's duties in the public interest.[46] By statute, state officers and employees must comply with certain ethical responsibilities and disclosure obligations.[47] The consequences for noncompliance may include a void contract,[48] personal liability for *ultra vires* acts, or a criminal penalty.[49] For specific information regarding the professional standards applicable to a particular agency or a position within an agency, state employees or officers may consult with their agency legal counsel.

[42] TEX. GOV'T CODE § 2106.002.

[43] 2 CFR § 200.416.

[44] A "state officer" is an elected officer, an appointed officer, a salaried appointed officer, an appointed officer of a major state agency, or the executive head of a state agency. TEX. GOV'T CODE §572.002(12).

[45] A "state employee" is an individual, other than a state officer, who is employed by a state agency, Texas appellate courts or the Texas Judicial Council, either house of the Texas legislature or a legislative agency, council, or committee, including the Legislative Budget Board, Texas Legislative Council, State Auditor's Office, and Legislative Reference Library. TEX. GOV'T CODE § 572.002(11).

[46] TEX GOV'T CODE § 572.001(a).

[47] *E.g.*, TEX GOV'T CODE § 572.051 (Standards of Conduct); TEX. PENAL CODE § 36.02 (Bribery); TEX. PENAL CODE § 36.08 (Gift to Public Servant by Person Subject to His Jurisdiction); TEX. PENAL CODE § 39.06 (Misuse of Official Information).

[48] If an officer of a governmental body has a direct or indirect pecuniary interest in a grant before the body, the contract is void. Tex. Att'y Gen. Op. No. JC-0484 (2002).

[49] A public servant faces criminal liability if, with intent to obtain a benefit or with intent to harm or defraud another, the person intentionally or knowingly misuses anything of value belonging to the government that has come into the person's custody or possession by virtue of the person's office or employment. TEX. PENAL CODE § 39.02(a)(2).

Transparency and Accountability

Grant Opportunity Announcements

Agency Website

It is customary for a state agency to announce grant opportunities on its public website. As of September 1, 2013, a state agency[50] that awards a state grant in an amount greater than $25,000 from funds appropriated through the General Appropriations Act must also publish the purpose for which the grant was awarded on its public website.[51] In addition, the state agency must provide its webpage link to the Comptroller so that a master list of grant information webpages may be posted on the Comptroller's website.[52]

Texas.gov eGrants

SPD encourages state agencies to utilize the Texas.gov eGrants website. The Department of Information Resources (DIR) launched the Texas.gov eGrants website to provide a single location for electronic summaries of grant opportunities with state agencies.[53] Users of the Texas.gov eGrants website are able to search for, view the details of, and find contact information for competitive grant opportunities posted by state agencies.

Electronic State Business Daily

The Electronic State Business Daily (ESBD) is an online directory administered by SPD that publishes solicitations and contract awards.[54] Because the search capabilities of the ESBD were designed for procurements, the ESBD does not offer an efficient or effective way for users to identify grant opportunity announcements. Consequently, SPD discourages the use of the ESBD for posting grant opportunities.

Grantee Selection

The Legislature intends for state agencies to exercise their legal authority in a fiscally responsible manner.[55] State agencies are therefore responsible for ensuring the transparency, objectivity, and integrity of the grantee selection process. Written procedures should address the evaluation of applications and the award of grants as well as any conflict of interest disclosure requirements applicable to the individuals involved in the grant award process. Adequate documentation should also be retained by the state agency to support the evaluation scores, including justifications for any deviations to the established application scoring methodology. In addition, agencies should implement internal controls sufficient to ensure that all grant evaluation and award procedures are consistently followed.

State Agency Procurement

State agency procurements financed by grant funds must comply with applicable state purchasing law[56] as well as the grant agreement. SPD and DIR each operate statewide centralized purchasing programs and leverage the State's buying power to provide cost-effective products and services. State agencies must use SPD and DIR designated procurement methods unless the purchase falls within a statutory exclusion or exemption. For state agencies subject to SPD's procurement authority, state agency purchases made from grant funds must comply with SPD rules unless the

[50] For the purpose of Section 403.0245, relating to the availability on the internet of certain information on state grants, "state agency" means:

(1) any department, commission, board, office, or other agency in the executive or legislative branch of state government created by the constitution or a statute of this state;

(2) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, the Texas Civil Judicial Council, the Office of Court Administration of the Texas Judicial System, the State Bar of Texas, or another state judicial agency created by the constitution or a statute of this state;

(3) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(4) another governmental organization that the comptroller determines to be a component unit of state government for purposes of financial reporting under the provisions of this section.

TEX. GOV'T CODE §§ 403.0245(a), 403.013(a).

[51] TEX. GOV'T CODE § 403.0245(b). *See also* Fiscal Policy and Procedure No. FPP S.010 (Requirement to Publish Purpose of State Grants) at https://fmx.cpa.texas.gov/fm/grants/.

[52] The Comptroller's State Grant Listing is located at https://comptroller.texas.gov/transparency/revenue/grants.php.

[53] TEX. GOV'T CODE § 2055.202.

[54] TEX. GOV'T CODE § 2155.083.

[55] General Provisions – Responsibilities of State Agencies, Fiscal Responsibility of Payments Policy located in eXpendit State Purchase Policies at https://fmx.cpa.texas.gov/fm/pubs/purchase/gen/index.php?section=responsibilities&page=fiscal_responsibility. *See also* TEX. GOV'T CODE §§ 321.013(f), 321.0133 (SAO may conduct economy and efficiency audit to determine whether state agency is managing or utilizing resources in economical and efficient manner); TEX. GOV'T CODE § 321.022(a) (administrative head of state agency shall report reasonable cause to believe that money was lost, misappropriated, or misused to SAO).

[56] *See generally* Title 10, Subtitle D of the Texas Government Code for the State Purchasing and General Services Act; 2 CFR § 200.317 (state agency procurement of property and services for federal grant programs must follow same policies and procedures used for procurement from non-federal funds).

purchase is made in support of research.[57] Procurements of goods or services that are not made under SPD's purchasing authority may be subject to Chapter 2261 of the Texas Government Code.[58]

ESBD posting requirements, Contract Advisory Team (CAT) reviews, Quality Assurance Team (QAT) reviews, and Legislative Budget Board (LBB) contracts database reporting may apply to agency purchases funded by grants. SPD has published the *State of Texas Procurement and Contract Management Guide*[59] as an aid to procurement professionals in the execution of their duties.

Reporting Requirements

State agency grant agreements may be subject to various reporting requirements depending on the transaction value and source of funds. For example, grant agreements with a value greater than $50,000 must be reported to the Legislative Budget Board (LBB) Contracts Database.[60] There are also notification requirements for certain federally funded programs.[61] Grant program managers are encouraged to consult with agency legal counsel to ensure compliance with applicable reporting requirements.

Intergovernmental Coordination

The Office of State-Federal Relations acts as a liaison between Texas and the federal government. The duties of this state agency, administratively attached to the Governor's Office, include:

- helping to coordinate state and federal programs dealing with the same subject;
- informing the Governor and the Legislature of federal programs that may be carried out in the state or that affect state programs;
- providing Federal agencies and the United States Congress with information about state policy and state conditions on matters that concern the federal government;
- responding to requests for information from the Legislature, the United States Congress, and Federal agencies; and
- coordinating with the Legislative Budget Board regarding the effects of federal funding on the state budget.[62]

To assist in a coordinated communication of the State's interests, any state agency that is not headed by a statewide-elected official must, to the extent practicable, contact the Office of State-Federal Relations before the state agency provides information to a Federal agency or to the United States Congress about state policy or conditions.[63] In addition, an agency or political subdivision of the State must report to the Office of State-Federal Relations any contract between the agency or subdivision and a federal-level government relations consultant.[64]

The Governor, as the chief planning officer of the State, has established a Division of Planning and Coordination.[65] Among other responsibilities, this division serves as the clearinghouse for all state agency applications for federal grant or loan assistance.[66] A state agency is required to notify the Division of Planning and Coordination of each application for federal grant or loan assistance before the agency submits the application.[67]

The Governor may also provide planning assistance to political subdivisions. On request of the governing body of a political subdivision or the authorized agency of a group of political subdivisions, the Governor may (1) arrange planning assistance, including surveys, community renewal plans, technical services, and other planning and (2) arrange for a study or report on a planning problem submitted to the Governor.[68] In addition, the Governor, or a state agency designated by the Governor, may provide technical assistance and coordinate the actions of a local government participating in a federal assistance program.[69] The governing body of a local government by order or resolution may request that the Governor, or the designated state agency, act on behalf of the local government in any matter relating to a request for federal financial assistance or an agreement, assurance of compliance, requirement, or enforcement action relating to the request.[70]

57 TEX. GOV'T CODE § 2155.140 ("The commission's authority does not apply to a purchase of goods or services from a gift or grant, including an industrial or federal grant or contract in support of research.").

58 TEX. GOV'T CODE § 2261.001(a) ("This chapter, other than Subchapter F, applies only to each procurement of goods or services made by a state agency that is neither made by the comptroller nor made under purchasing authority delegated to the agency by or under Section 51.9335 or 73.115, Education Code, or Section 2155.131 or 2155.132.").

59 The Texas Procurement and Contract Management Guide is published on the Comptroller's website at Comptroller.Texas.Gov.

60 General Appropriations Act, Senate Bill 1, 87th R.S. at Article IX, Section 7.04.

61 General Appropriations Act, Senate Bill 1, 87th R.S. at Article IX, Sections 13.02 (report of additional funding), 13.03 (report of expanded operational capacity), 13.12 (report of federal homeland security funding).

62 TEX. GOV'T CODE §§ 751.002, 751.005.

63 TEX. GOV'T CODE § 751.023.

64 TEX. GOV'T CODE § 751.016.

65 TEX. GOV'T CODE §§ 772.002, 772.004(a).

66 TEX. GOV'T CODE § 772.008(a).

67 TEX. GOV'T CODE § 772.005.

68 TEX. GOV'T CODE § 772.008(a).

69 TEX. GOV'T CODE §§ 742.001, 742.003(a).

70 TEX. GOV'T CODE § 742.004(a).

Federal *Uniform Guidance*

The U.S. Office of Management and Budget (OMB) guidance titled "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," commonly referred to as the *Uniform Guidance*, is located in Subtitle A of Title 2 of the Code of Federal Regulations. The following eight sets of previous OMB guidance documents were integrated and streamlined by the OMB into the *Uniform Guidance* in 2014:

- A–21 (Cost Principles for Educational Institutions) at 2 CFR Part 220;
- A–87 (Cost Principles for State, Local and Indian Tribal Governments) at 2 CFR Part 225 and also Federal Register notice 51 FR 552 (January 6, 1986);
- A–89 (Federal Domestic Assistance Program Information);
- A–102 (Grant Awards and Cooperative Agreements with State and Local Governments);
- A–110 (Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations) at 2 CFR Part 215;
- A–122 (Cost Principles for Non-Profit Organizations) at 2 CFR Part 230;
- A–133 (Audits of States, Local Governments and Non-Profit Organizations); and
- Those sections of A–50 related to audits performed under Subpart F of 2 CFR Part 200.[71]

Implementation of the *Uniform Guidance* is expected to reduce administrative burden for non-Federal entities receiving Federal awards while reducing the risk of waste, fraud, and abuse.[72] The policy reforms in the *Uniform Guidance* include

- eliminating duplicative and conflicting guidance;
- focusing on performance over compliance for accountability;
- encouraging efficient use of information technology and shared services;
- providing for consistent and transparent treatment of costs;
- limiting allowable costs to make the best use of federal resources;
- setting standard business processes using data definitions;
- encouraging non-Federal entities to have family-friendly policies;
- strengthening oversight; and
- targeting audit requirements on risk of waste, fraud, and abuse.[73]

Although the *Uniform Guidance* is intended to be the government-wide framework for federal grants management,[74] some federal programs may have exemptions or requirements in addition to the *Uniform Guidance*.[75] Grant program managers, therefore, must not only be familiar with the *Uniform Guidance* but also the associated Federal agency implementing regulations set forth in Subtitle B of Title 2 of the Code of Federal Regulations, the federal program legislation and associated regulations, any Federal agency issued information bulletins and policy statements regarding the program, any applicable state law and policies, and the terms and conditions of the Federal award.

[71] 2 CFR § 200.104.

[72] Uniform Guidance (Final Guidance), 78 Fed. Reg. 248, 78590 (2013); Uniform Guidance (Interim Final Rule), 79 Fed. Reg. 244, 75872 (2014).

[73] Uniform Guidance (Final Guidance), 78 Fed. Reg. 248, 78591-78593 (2013).

[74] Uniform Guidance (Final Guidance), 78 Fed. Reg. 248, 78590 (2013).

[75] See 2 CFR §§ 1.105, 200.101.

UNIFORM ASSURANCES

TxGMS, as required by Chapter 783 of the Texas Government Code, includes uniform and concise language for any assurances that a local government is required to make to a state agency.[76] The term "assurance" refers to a statement of compliance with federal or state law that is required of a local government as a condition for the receipt of grant or contract funds.[77] A list of the Uniform Assurances to be made by local governments to state agencies is provided in Appendix 6.

Because the Uniform Assurances are meant to be of general applicability to units of local government, the Uniform Assurances do not include certifications based on the following: federal or state program legislation, program-specific requirements contained in the federal or state award, or specific conditions tailored to a particular subrecipient. Accordingly, state agencies may include certifications in their grant agreements and procurement contracts with local governments that are in addition to the Uniform Assurances to ensure compliance with applicable law or rule.

STANDARD FINANCIAL MANAGEMENT CONDITIONS

Overview

TxGMS, as required by Chapter 783 of the Texas Government Code, includes a compilation of Standard Financial Management Conditions.[78] The term "financial management conditions" refers to generally applicable policies and procedures for the accounting, reporting, and management of funds that state agencies require local governments to follow in the administration of grants and contracts.[79]

The financial management conditions vary depending on the funding source and type of transaction. Therefore, in accordance with Section 783.006(d) of the Texas Government Code,[80] the Standard Financial Management Conditions are categorized according to federal grant programs and state grant programs.

Failure to follow a state or federal law applicable to the disbursement of grant funds may subject the local government to statutory, common law, and contractual remedies that may include administrative action, suspension of grant payments, termination, and ineligibility for future grants.

Federal Grant Programs

For federally funded grant programs administered by the State, a local government subrecipient must comply with the Standard Financial Management Conditions that comprise the following:

(1) the federal program legislation as well as any associated regulations and program-specific policy statements issued by the Federal awarding agency,

(2) the *Uniform Guidance* and any applicable Federal awarding agency regulations located in Subtitle B of Title 2 of the Code of Federal Regulations,

(3) as permitted by the *Uniform Guidance*, a state agency's subaward may include additional specific award conditions,[81] and

[76] TEX. GOV'T CODE § 783.005(a).

[77] TEX. GOV'T CODE § 783.003.

[78] TEX. GOV'T CODE § 783.006.

[79] TEX. GOV'T CODE § 783.003.

[80] TEX. GOV'T CODE § 783.006(d).

[81] 2 CFR § 200.207.

(4) requirements the state agency imposes on the subrecipient in order for the state agency to meet its own responsibility to the Federal awarding agency[82] (*e.g.*, the applicable terms and conditions of the Federal agency's award).

In addition, state agencies must comply with applicable state law and fiscal policy in the administration of federal grant programs (*e.g.*, Chapter 783 of the Texas Government Code).

State Grant Programs

Overview

For grant programs wholly funded by the State, a local government grantee under a grant from a state agency must comply with the following Standard Financial Management Conditions:

- Grant Award to Local Government,
- Standards for Financial and Program Management,
- Grantee Subawards and Contracts,
- Property Standards,
- Performance and Financial Monitoring and Reporting,
- Records Retention and Access,
- Remedies for Noncompliance,
- Closeout,
- Post-Closeout Adjustments and Continuing Responsibilities,
- Collection of Amounts Due,
- Cost Principles, and
- Audits.

Grant program managers should not presume that the laws and polices applicable to federal grant programs apply to state-funded grant programs. To assist grant program managers in identifying similarities and differences between the administration of state and federal grant programs, the Standard Financial Management Conditions for state grant programs generally follow the organizational structure of the *Uniform Guidance*. In addition, a Selected Items of Cost Supplement Chart is provided in Appendix 7.

Grant Award to Local Government

The local government must enter into a written grant agreement with the state agency grantor. The terms and conditions of the state agency grant agreement with the local government must address, as applicable, the following: Uniform Assurances, Standard Financial Management Conditions, program legislation, program specific requirements, relevant public policy requirements, including General Appropriations Act provisions, and specific conditions tailored to the local government.

Standards for Financial and Program Management

Statutory and Policy Requirements

The local government is responsible for complying with all requirements of the state award. The local government must manage and administer the state award in a manner to ensure that funding provided through the state award is expended and associated programs are implemented in full accordance with state law and public policy requirements.

Performance Measurement

As required by the performance goals, indicators, and milestones in the state award, the local government must relate financial data to performance accomplishments of the state award. When applicable, the local government must also provide cost information such as unit cost data to demonstrate cost effectiveness. The local government's performance should be measured in a way that will help the state awarding agency to improve program outcomes, share lessons learned, and spread the adoption of promising practices. Frequency and content of performance reporting should be established to not only allow the state awarding agency to understand each grantee's progress but also to facilitate identification of promising practices among grantees and build the evidence upon which the state awarding agency's program and performance decisions are made.

[82] 2 CFR § 200.331(a)(3).

Financial Management

Each local government must expend and account for the state award in accordance with applicable laws for expending and accounting for the local government's own funds. In addition, the local government's financial management systems, including records documenting compliance with applicable statutes, regulations, and the terms and conditions of the state award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions, and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the applicable laws, rules, and terms and conditions of the state award.

The financial management system of each local government must provide for the following:

(1) Identification, in its accounts, of all state awards received and expended and the state programs under which they were received. State program and state award identification must include, as applicable, the state award identification number and year, name of the state agency, and name of the pass-through entity, if any.

(2) Accurate, current, and complete disclosure of the financial results of each state award or program in accordance with the reporting requirements set forth the Financial Reporting and Monitoring and Reporting Program Performance sections. If a state awarding agency requires reporting on an accrual basis from a local government that maintains its records on other than an accrual basis, the local government must not be required to establish an accrual accounting system. This local government may develop accrual data for its reports based on an analysis of the documentation on hand. Similarly, a pass-through entity must not require a sub-grantee to establish an accrual accounting system and must allow the sub-grantee to develop accrual data for its reports based on an analysis of the documentation on hand.

(3) Records that identify adequately the source and application of funds for state-funded activities. These records must contain information pertaining to state awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

(4) Effective control over, and accountability for, all funds, property, and other assets. The local government must adequately safeguard all assets and assure that they are used solely for authorized purposes.

(5) Comparison of expenditures with budget amounts for each state award.

(6) Written procedures to implement the requirements of the Payment section set forth in TxGMS.

(7) Written procedures for determining the allowability of costs in accordance with the Cost Principles section and the terms and conditions of the state award.

Internal Controls

The local government must

(1) establish and maintain effective internal control over the state award that provides reasonable assurance that the local government is managing the state award in compliance with statutes, rules, and the terms and conditions of the state award;

(2) comply with statutes, rules, and the terms and conditions of the state awards;

(3) evaluate and monitor the local government's compliance with statutes, rules, and the terms and conditions of state awards;

(4) take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; and

(5) take reasonable measures to safeguard protected personally identifiable information and other information the state awarding agency designates as sensitive or the local government considers sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

Bonds and Insurance

The state awarding agency may include a provision on bonding, insurance, or both in the state award in the following circumstances:

(1) Where the state government guarantees or insures the repayment of money borrowed by the local government, the state awarding agency, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the local government are not deemed adequate to protect the interest of the state government.

(2) The state awarding agency may require adequate fidelity bond coverage where the local government lacks sufficient coverage to protect the state government's interest.

(3) Where bonds are required in the situations described in this section, the bonds must be obtained from companies licensed in Texas with an "A-" rating or better from A.M. Best Company holding certificates of authority as acceptable sureties.

Payment

A state awarding agency must distribute grant money on a reimbursement or an as-needed basis unless (1) otherwise provided by statute or (2) the agency determines another distribution method is necessary for the purposes of the grant.

If payments are made in advance, payment methods utilized by the state awarding agency must minimize the time elapsing between the transfer of funds from the state agency and the disbursement by the local government whether the payment is made by electronic funds transfer, or issuance of redemption checks, warrants, or payment by other means.

(1) The local government may be paid in advance, provided that the local government maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the local government, and financial management systems that meet the standards for fund control and accountability as established in TxGMS. Advance payments to a local government must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the local government in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the local government for direct program or project costs and the proportionate share of any allowable indirect costs. The local government must make timely payment to contractors in accordance with the contract provisions.

(2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all state awards made by the state awarding agency to the local government.

  (i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable state law and fiscal policy.

  (ii) Unless state law provides otherwise, requests by local governments for advance payments and reimbursements may be submitted monthly or, if authorized by the state awarding agency, on a more frequent basis.

(3) When the reimbursement method is used, the state awarding agency or pass-through entity must make payment within 30 calendar days after receipt of a complete and correct request for payment. A state awarding agency shall notify the local government of an error in a request for payment, including incomplete supporting documentation, not later than the 21st day after the date the invoice is received.

(4) If the local government cannot meet the criteria for advance payments and the state awarding agency has determined that reimbursement is not feasible because the local government lacks sufficient working capital, the state awarding agency may provide cash on a working capital advance basis if the procedure is authorized by state law. Under this procedure, the state awarding agency must advance cash payments to the local government to cover its estimated disbursement needs for an initial period generally geared to the local government's disbursing cycle. Thereafter, the state awarding agency must reimburse the local government for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any sub-grantees in order to meet the sub-grantee's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the sub-grantee to meet the sub-grantee's actual cash disbursements.

(5) To the extent available, the local government must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

(6) Unless otherwise required by law, payments for allowable costs by the local government must not be withheld at any time during the period of performance unless the specific conditions of the award, remedies for noncompliance, or one or more of the following applies:

  (i) The local government has failed to comply with the project objectives, statutes, rules, or the terms and conditions of the state award.

  (ii) The local government is delinquent in a debt to the State.

  (iii) A payment withheld for failure to comply with state award conditions, but without suspension of the state award, must be released to the local government upon subsequent compliance. When a state award is suspended, payment adjustments will be made in accordance with the requirements of the Effects of Suspension and Termination section.

  (iv) A payment must not be made to a local government for amounts that are withheld by the local government from payment to contractors to assure satisfactory completion of work. A payment must be made when the local government actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(7) The use of banks and other institutions as depositories of advance payments under state awards must comply with the standards prescribed by applicable law.

(8) The determination as to whether the local government must maintain advance payments of state awards in interest-bearing accounts must comply with the standards prescribed by applicable law.

(9) The determination as to whether the local government may retain interest earned on advance payment amounts and whether the retained interest is subject to any restrictions (*e.g.,* monetary cap, expenditure limitation, annual remittance) must comply with the standards prescribed by applicable law.

Cost Sharing or Matching

Unless otherwise provided in state law, voluntary committed cost sharing is not expected under state research proposals. Voluntary committed cost sharing cannot be used as a factor during the merit review of applications or proposals, but may be considered if it is both in accordance with state awarding agency regulations and specified in a notice of funding opportunity. Criteria for considering voluntary committed cost sharing and any other program policy factors that may be used to determine who may receive a state award must be explicitly described in the notice of funding opportunity.

For all state awards, any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, must be accepted as part of the local government's cost sharing or matching when such contributions meet all of the following criteria:

(1) are verifiable from the local government's records;

(2) are not included as contributions for any other state award;

(3) are necessary and reasonable for accomplishment of project or program objectives;

(4) are allowable under the Cost Principles section;

(5) are not paid by the state government under another state award, except where the state statute authorizing a program specifically provides that state funds made available for such program can be applied to matching or cost sharing requirements of other state programs;

(6) are provided for in the approved budget when required by the state awarding agency; and

(7) conform to other provisions of TxGMS, as applicable.

Unrecovered indirect costs, including indirect costs on cost sharing or matching, may be included as part of cost sharing or matching only with the prior approval of the state awarding agency. Unrecovered indirect cost means the difference between the amount charged to the state award and the amount that could have been charged to the state award under the local government's approved negotiated indirect cost rate.

Values for local government contributions of services and property must be established in accordance with the Cost Principles section. If a state awarding agency authorizes the local government to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching must be the lesser of paragraphs (1) or (2):

(1) The value of the remaining life of the property recorded in the local government's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, the state awarding agency may approve the use of the current fair market value of the donated property, even if it exceeds the value described in (1) above at the time of donation.

Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for third-party volunteer services must be consistent with those paid for similar work by the local government. In those instances in which the required skills are not found in the local government, rates must be consistent with those paid for similar work in the labor market in which the local government competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation.

When a third-party organization furnishes the services of an employee, these services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and indirect costs at the third-party organization's approved negotiated indirect cost rate, or a rate in accordance with the Indirect Costs section provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made.

Donated property from third parties may include such items as equipment, office supplies, laboratory supplies, or workshop and classroom supplies. Value assessed to donated property included in the cost sharing or matching share must not exceed the fair market value of the property at the time of the donation.

The method used for determining cost sharing or matching for third-party-donated equipment, buildings and land for which title passes to the local government may differ according to the purpose of the state award, if paragraph (1) or (2) of this subsection applies:

(1) If the purpose of the state award is to assist the local government in the acquisition of equipment, buildings or land, the aggregate value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the state award is to support activities that require the use of equipment, buildings or land, normally only depreciation charges for equipment and buildings may be made. However, the fair market value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the state awarding agency has approved the charges.

The value of donated property must be determined in accordance with the usual accounting policies of the local government, with the following qualifications:

(1) The value of donated land and buildings must not exceed its fair market value at the time of donation to the local government as established by an independent appraiser (*e.g.,* certified real property appraiser) and certified by a responsible official of the local government.

(2) The value of donated equipment must not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality.

(4) The value of loaned equipment must not exceed its fair rental value.

For third-party in-kind contributions, the fair market value of goods and services must be documented and to the extent feasible supported by the same methods used internally by the local government.

Program Income

Unless a state law provides otherwise, the local government shall comply with the terms of the state award regarding the generation and use of program income. For purposes of TxGMS, the term "program income" includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under state awards, the sale of commodities or items fabricated under a state award, license fees and royalties on patents and copyrights, and principal and interest on loans made with state award funds. "Program income" refers to gross income directly generated by a supporting activity during the period of performance. Costs incidental to the generation of program income may be deducted from gross income to determine program income only if (1) deduction is authorized by the award, and (2) the costs to be deducted are not charged to the award. Except as otherwise provided in state statutes, regulations, or the terms and conditions of the state award, program income does not include rebates, credits, discounts, and interest earned on any of them. Taxes, special assessments, levies, fines, and other such revenues raised by a local government are not program income unless the revenues are specifically identified in the state award or state awarding agency regulations as program income. Proceeds from the sale of real property, equipment, or supplies are not program income; such proceeds will be handled in accordance with the TxGMS Property Standards. Unless the awarding agency specifies or approves another use of program income, program income must be deducted from total allowable costs to determine net allowable costs.

Revision of Budget and Program Plans

The approved budget for the state award summarizes the financial aspects of the project or program as approved during the state award process. It may include either the State and non-State share or only the State share, depending upon state awarding agency requirements. It must be related to performance for program evaluation purposes whenever appropriate.

The local government is required to report deviations from budget or project scope or objective, and request prior approval from the state awarding agency for budget and program plan revisions, in accordance with this section.

For non-construction state awards, the local government must request prior approval from the state awarding agency for one or more of the following program or budget-related reasons:

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or the state award.

(3) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The inclusion, unless waived in writing by the state awarding agency, of costs that require prior approval in accordance with TxGMS.

(5) The transfer of funds budgeted for participant support costs to other categories of expense.

(6) Unless described in the application and funded in the approved state award, the subawarding, transferring or contracting out of any work under a state award, including fixed amount subawards. This provision does not apply to the acquisition of supplies, material, equipment or general support services.

(7) Changes in the approved cost sharing or matching provided by the local government.

(8) The need for additional state funds to complete the project.

(9) Other circumstance specified in the state award.

The state awarding agency may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for state awards. The state awarding agency cannot permit a transfer that would cause any state appropriation to be used for purposes other than those consistent with the appropriation.

For construction state awards, the local government is required to obtain prior written approval promptly from the state awarding agency for budget revisions whenever clause (1), (2), or (3) applies:

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional state funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable TxGMS Cost Principles.

When a state awarding agency makes a state award that provides support for construction and non-construction work, the state awarding agency may require the local government to obtain prior approval from the state awarding agency before making any fund or budget transfers between the two types of work supported.

When requesting approval for budget revisions, the local government must use the same format for budget information that was used in the application, unless the state awarding agency indicates a letter of request suffices.

Period of Performance

A local government may charge to the state award only allowable costs incurred during the period of performance and any costs incurred before the state awarding agency made the state award that were authorized by the state awarding agency. See Pre-award Costs in Appendix 7.

Grantee Subawards and Contracts

Sub-grantee and Contractor Determination

In the event of a subaward or procurement contract, the local government must make a case-by-case determination whether each agreement it makes for the disbursement of program funds casts the party receiving the funds in the role of a sub-grantee or a contractor. The state awarding agency may supply and require the local government to comply with additional guidance to support these determinations provided such guidance does not conflict with this section. The table below sets forth criteria to be used to distinguish sub-grantee from contractors in state grant programs.

STATE GRANT PROGRAM

Sub-grantee/Subrecipient and Contractor Determination	
Sub-grantee/Subrecipient	**Contractor**
Characteristics which support the classification of the entity as a sub-grantee include when the entity: (1) Determines who is eligible to receive what financial assistance; (2) Has its performance measured in relation to whether objectives of a grant program were met; (3) Has responsibility for programmatic decision making; (4) Is responsible for adherence to applicable grant program requirements specified in the state award; and (5) In accordance with its agreement, uses the state funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the local government.	Characteristics indicative of a procurement relationship between the local government and a contractor are when the contractor: (1) Provides the goods and services within normal business operations; (2) Provides similar goods or services to many different purchasers; (3) Normally operates in a competitive environment; (4) Provides goods or services that are ancillary to the operation of the grant program; and (5) Is not subject to compliance requirements of the grant program as a result of the agreement, though similar requirements may apply for other reasons.

Procurement Contracts

GENERAL PROCUREMENT STANDARDS

Procurement Methods. When procuring property and services under a state award, the local government must follow the same documented policies and procedures, including conflict of interest standards, it uses for procurements from its non-state funds as well as comply with TxGMS and applicable law. The local government shall use the procurement methods in this section, unless another method is approved by the state awarding agency.

Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed $3,000. Micro-purchases may be awarded without soliciting competitive quotations if the local government considers the price to be reasonable.

Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Texas Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

Procurement by sealed bids (formal advertising). Sealed bidding is feasible only if: (1) a complete, adequate, and realistic specification or purchase description is available; (2) two or more responsible bidders are willing and able to compete effectively for the business; (3) the procurement lends itself to a firm fixed price contract; and (4) the selection of the successful bidder can be made principally on the basis of price. If sealed bids are used, bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids. For local and tribal governments, the invitation for bids must be publicly advertised. The invitation for bids must define the items or services in order for the bidder to properly respond. All bids must be opened at the time and place prescribed in the invitation for bids. A firm fixed price contract must be awarded to the lowest responsive and responsible bidder. Where specified in the solicitation, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

Procurement by competitive proposals. The competitive proposal method is generally used when conditions are not appropriate for the use of sealed bids. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical. Proposals must be solicited from an adequate number of qualified sources. The procuring entity must have a written method for conducting

technical evaluations of the proposals received and for selecting contractors. A contract must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

Procurement of architecture/engineering services by competitive proposals. Competitive proposal procedures may be used for procurement of architectural/engineering (A/E) professional services using an alternate evaluation method where price is not a selection factor. Instead of considering price, competitors' qualifications may be evaluated and the most qualified competitor selected. Contract award is subject to negotiation of fair and reasonable compensation. The method can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services even though A/E firms are a potential source to perform the proposed work.

Procurement by noncompetitive proposals. Procurement through solicitation of a proposal from only one source may be used only when one or more of the following circumstances apply: (1) the item is available only from a single source; (2) the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; (3) the awarding agency or pass-through entity expressly authorizes noncompetitive proposals; or (4) after solicitation of a number of sources, competition is determined inadequate.

Procurement Considerations. The purchase procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

Time and Materials Contracts. A time and materials contract is a contract in which the contractor is paid the sum of (1) actual cost of materials used and (2) a fixed hourly rate for labor. In the event the local government uses a time and materials contract, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the local government awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. Because the contractor will have no incentive to control the cost of materials, a time and materials contract is appropriate only if no other contract is suitable.

Administrative Efficiency. To foster greater economy and efficiency, the local government is encouraged to enter into intergovernmental agreements[83] and utilize the cooperative purchasing programs established by SPD or DIR where appropriate for procurement or use of common or shared goods and services. In addition, the local government is encouraged to use federal, state, and local surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Award Considerations and Procurement Records. The local government must award contracts to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. The local government must maintain records sufficient to detail the history of the procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

Conflict of Interest Standards. The local government must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a state award if he or she has a real or apparent conflict of interest. For example, a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. Officers, employees, and agents of the non-state entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, other than an unsolicited item of nominal value that may be accepted under a written policy of the non-state entity. If the non-state entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-state entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-state entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related

[83] An intergovernmental agreement is an agreement between governmental entities to exchange goods and services at cost, or the nearest practicable estimate thereof. An intergovernmental agreement is not a procurement contract.

organization. At a minimum, the local government's conflict of interest standards and associated disclosure requirements must comply with applicable law, TxGMS, and the terms and conditions of the state award.

Oversight. The local government must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts and purchase orders. The local government alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the local government of any contractual responsibilities under its contracts.

COMPETITION

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section and applicable state law. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

The local government must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

The local government must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the local government must not preclude potential bidders from qualifying during the solicitation period.

CONTRACT COST AND PRICE

The local government must perform a cost or price analysis in connection with every procurement action in excess of the Texas Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the local government must make independent estimates before receiving bids or proposals.

The local government must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the state award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the local government under the Cost Principles section. The local government may reference its own cost principles that comply with TxGMS cost principles. The cost plus a percentage of cost and percentage of construction cost methods of contracting, however, must not be used.

STATE AWARDING AGENCY REVIEW

Specifications Review. The local government must make available, upon request of the state awarding agency, technical specifications on proposed procurements where the state awarding agency believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the local government desires to have the review accomplished after a solicitation has been developed, the state awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

Pre-procurement Document Review. The local government must make available upon request, for the state awarding agency pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The local government's procurement procedures or operation fails to comply with the procurement standards set forth in TxGMS;

(2) The procurement is expected to exceed the Texas Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Texas Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Texas Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount and the resulting contract value exceeds the Texas Acquisition Threshold.

The local government is exempt from the pre-procurement review required by this section if the state awarding agency determines that its procurement systems comply with TxGMS. The local government may request that its procurement system be reviewed by the state awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

The local government may self-certify its procurement system. Such self-certification must not limit the state awarding agency's right to survey the system. Under a self-certification procedure, the state awarding agency may rely on written assurances from the local government that it is complying with these standards. The local government must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

BONDING REQUIREMENTS

For construction or facility improvement contracts or subcontracts exceeding the Texas Acquisition Threshold, the state awarding agency may accept the bonding policy and requirements of the local government provided that the state awarding agency has made a determination that the state interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(1) A bid guarantee from each bidder equivalent to 5 percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

CONTRACT PROVISIONS

The local government's contracts must contain applicable contract provisions from Appendix 6 as well as any additional provisions necessary for compliance with law and the terms of the state award.

Subaward Procedures

REQUIREMENTS FOR PASS-THROUGH ENTITIES

A local government must ensure that every subaward is clearly identified as a subaward and that the subaward complies with the terms and conditions of the state award and TxGMS. The standards required by TxGMS flow down to the sub-grantees through the subawards unless the context clearly indicates otherwise.

Many of the standards in TxGMS are presented from the perspective of the grantor (state awarding agency) and grantee (local government) relationship. To determine the respective duties and obligations in the subaward context, the local government in its role as the pass-through entity will stand in the shoes of the grantor (state awarding agency) and the sub-grantee will comply with the requirements of the grantee (local government) unless alternate text specifies requirements for a particular category of sub-grantees (*e.g.*, nonprofit organizations, institutions of higher education). In its role as a pass-through entity, the local government will facilitate the communications between the sub-grantees and state awarding agency that are necessary for the timely evaluation of matters requiring the approval of the state awarding agency. Unless the award provides otherwise, any matter that would require approval of the state agency grantor if carried out by the local government grantee must still be approved by the state agency grantor, even though it is carried out by a sub-grantee.

FIXED AMOUNT AWARDS

A fixed amount award is a type of grant agreement under which the state awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the state award. Fixed amount awards are appropriate when the work that is to be performed can be priced with a reasonable degree of certainty. Samples of appropriate mechanisms to establish an appropriate price include the non-state entity's past experience with similar types of work for which outcomes and its costs can be reliably predicted, or the non-state entity can easily obtain price estimates for significant cost elements.

This type of state award reduces some of the administrative burden and record-keeping requirements for both the non-state entity and state awarding agency. Accountability is based primarily on performance and results. With prior written approval from the state awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the Texas Acquisition Threshold, provided the subawards comply with the requirements of this section and the state award. The following conditions apply to fixed amount awards:

(1) The state award amount is negotiated using the Cost Principles (or other pricing information) as a guide. The state awarding agency or pass-through entity may use fixed amount awards if the project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award based on a reasonable estimate of actual cost. Payments are based on meeting specific requirements of the state award. Accountability is based on performance and results. There is no governmental review of the actual costs incurred by the non-state entity in performance of the award except in the case of termination before completion of the state award and investigations pertaining to noncompliance with grant terms or applicable law (*e.g.*, allegations of fraud, waste, and abuse). Some of the ways in which the state award may be paid include, but are not limited to, the following:

   (a) In several partial payments, the amount of each agreed upon in advance, and the "milestone" or event triggering the payment also agreed upon in advance, and set forth in the state award;

   (b) On a unit price basis, for a defined unit or units, at a defined price or prices, agreed to in advance of performance of the state award and set forth in the state award; or,

   (c) In one payment at state award completion.

(2) A fixed amount award cannot be used in programs that require mandatory cost sharing or match.

(3) The non-state entity must certify in writing to the state awarding agency or pass-through entity at the end of the state award that the project or activity was completed or the level of effort was expended. If the required level of activity or effort was not carried out, the amount of the state award must be adjusted.

(4) Periodic reports may be established for each state award.

(5) Changes in principal investigator, project leader, project partner, or scope of effort must receive the prior written approval of the state awarding agency or pass-through entity.

PRE-AWARD RISK REVIEW OF APPLICANTS

Prior to making a subaward, the local government must review the risk posed by grant applicants.

The local government as part of its pre-award risk review may review eligibility qualifications and financial integrity information available through government repositories such as the State of Texas Vendor Performance Tracking System, System for Award Management, and Federal Awardee Performance and Integrity Information System (FAPIIS). Awards may not be made to entities that are subject to government wide suspension or debarment as indicated on the State of Texas Debarred Vendor List or System for Award Management.

The evaluation of risks posed by applicants may incorporate results of the evaluation of the applicant's eligibility or the quality of its application. If the local government determines that a subaward will be made, specific conditions that correspond to the degree of risk assessed may be applied to the subaward agreement.

In evaluating risks posed by applicants, the local government may use a risk-based approach and may consider any items such as the following:

(a) financial stability;

(b) quality of management systems and ability to meet the management standards;

(c) the applicant's record in managing state and Federal awards, if it is a prior recipient of state or Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous state and Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards;

(d) reports and findings from audits performed; and

(e) the applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on the grantee and sub-grantees.

SPECIFIC CONDITIONS

The local government may impose additional specific award conditions in a subaward as needed, in accordance with this section, under the following circumstances:

(1) based on the criteria used for the Pre-award Risk Review of Applicants section;

(2) when an applicant or sub-grantee has a history of failure to comply with the general or specific terms and conditions of a state or Federal award;

(3) when an applicant or sub-grantee fails to meet expected performance goals as described in the subaward; or

(4) when an applicant or sub-grantee is not otherwise responsible.

These additional award conditions may include items such as the following:

(1) requiring payments as reimbursements rather than advance payments;

(2) withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;

(3) requiring additional, more detailed financial reports;

(4) requiring additional project monitoring;

(5) requiring the sub-grantee to obtain technical or management assistance; or

(6) establishing additional prior approvals.

The local government must notify the applicant or sub-grantee as to:

(1) the nature of the additional requirements;

(2) the reason why the additional requirements are being imposed;

(3) the nature of the action needed to remove the additional requirement, if applicable;

(4) the time allowed for completing the actions if applicable, and

(5) the method for requesting reconsideration of the additional requirements imposed.

Any specific conditions must be promptly removed once the conditions that prompted them have been corrected.

INFORMATION CONTAINED IN A SUBAWARD

The local government shall ensure that each subaward is clearly identified to the sub-grantee as a subaward and that each subaward is formalized by written agreement. In addition to any applicable terms and conditions of the state award that flow down through subawards to sub-grantees, the local government must include the following information in the subaward:

(1) **General Subaward Information**. The local government must include the following general award information in each subaward:

- (a) Sub-grantee name (which must match registered name in DUNS);
- (b) Sub-grantee's unique entity identifier in DUNS;
- (c) Funding Opportunity Number (required, if applicable). If the local government has assigned a number to the funding opportunity, this number must be provided;
- (d) Award Date;
- (e) Subaward Period of Performance Start and End Date;
- (f) Amount of State Funds Obligated by this Action by the Local Government to the Sub-grantee;
- (g) Total Amount of State Funds Obligated to Sub-grantee by the Local Government, including the current obligation;
- (h) Total Amount of the State Agency Award committed to the Sub-grantee by the Local Government;
- (i) Total Approved Cost Sharing or Matching, where applicable;
- (j) Project description (sufficient to comply with any statutory requirements);
- (k) Name of local government and contact information for awarding official
- (l) Identification of whether the award is R&D; and
- (m) Indirect cost rate for the subaward.

(2) **General Terms and Conditions**. The local government must incorporate all the general terms and conditions (*e.g.*, administrative requirements, statutes and rules) applicable to the award.

If the subaward includes terms and conditions incorporated by reference, the subaward must include wording that expressly incorporates, by reference, the applicable information and specifies a publicly available website where the information may be accessed. If a sub-grantee requests a copy of the full text of such information, the local government must promptly provide it. The local government must also maintain an archive of previous versions of the incorporated by reference terms and conditions, with effective dates, for use by the sub-grantees, auditors, or others.

(3) **Additional Requirements**. The local government must include any additional requirements necessary for the local government to meet its own responsibility to the state awarding agency including identification of any required financial and performance reports.

- (a) **State Agency, Program, or Award-Specific Terms and Conditions**. The local government may include with each subaward any terms and conditions necessary to communicate requirements that are in addition to the requirements outlined in the local government's general terms and conditions. Whenever practicable, these specific terms and conditions also should be shared on a public website and in notices of funding opportunities in addition to being included in a subaward.
- (b) **Subaward Performance Goals**. The local government must include in the subaward an indication of the timing and scope of expected performance by the sub-grantee as related to the outcomes intended to be achieved by the program. In some instances (*e.g.*, discretionary research awards), this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with local government policy). Where appropriate, the subaward may include specific performance goals, indicators, milestones, or expected outcomes (such as outputs, or services performed or public impacts of any of these) with an expected timeline for accomplishment. Reporting requirements must be clearly articulated such that, where appropriate, performance during the execution of the subaward has a standard against which sub-grantee performance can be measured. The local government may include program-specific requirements, as applicable. These requirements should be aligned with strategic goals, strategic objectives or performance goals that are relevant to the program.
- (c) **Any other information required by the local government**.

(4) The indirect cost rate for the subaward that is either a negotiated rate or a de minimis rate as defined in the Indirect Costs section.

(5) A requirement that the sub-grantee permit the local government and auditors to have access to the sub-grantee's records and financial statements as necessary for the local government to comply with the requirements of the state award and TxGMS.

(6) Appropriate terms and conditions concerning closeout of the subaward.

EVALUATION OF SUB-GRANTEE'S RISK OF NONCOMPLIANCE

The local government will evaluate each sub-grantee's risk of noncompliance with state law, rules, and the terms and conditions of the subaward for purposes of determining the appropriate sub-grantee monitoring which may include consideration of such factors as:

(1) the sub-grantee's prior experience with the same or similar subawards;

(2) the results of previous audits including whether or not the sub-grantee receives a Single Audit prepared in compliance with the *Uniform Guidance*, and the extent to which the same or similar subaward has been audited;

(3) whether the sub-grantee has new personnel or new or substantially changed systems; and

(4) the extent and results of state awarding agency monitoring (*e.g.,* if the sub-grantee also receives state awards directly from the state awarding agency).

The local government will consider imposing specific conditions upon a sub-grantee, if appropriate.

SUB-GRANTEE MONITORING AND MANAGEMENT

The local government must monitor the activities of the sub-grantee as necessary to ensure that subaward performance goals are achieved and the subaward is used for authorized purposes, in compliance with state law, rules, and the terms and conditions of the subaward. The local government monitoring of the sub-grantee must include:

(1) Reviewing financial and performance reports required by the local government.

(2) Following-up and ensuring that the sub-grantee takes timely and appropriate action on all deficiencies pertaining to the subaward provided to the sub-grantee from the local government detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the subaward provided to the sub-grantee from the local government as required by the Management Decision section.

Depending upon the local government's assessment of risk posed by the sub-grantee as described in the Evaluation of Sub-grantee's Risk of Noncompliance section, the following monitoring tools may be useful for the local government to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) providing sub-grantees with training and technical assistance on program-related matters;

(2) performing on-site reviews of the sub-grantee's program operations; and

(3) arranging for audit services.

The local government must verify that every sub-grantee is audited as required by TxGMS when it is expected that the sub-grantee's state awards expended during the respective fiscal year equaled or exceeded the threshold set forth in the Audit Requirements section. Further, the local government must consider whether the results of the sub-grantee's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the local government's own records. The local government must consider taking enforcement action against noncompliant sub-grantees as described in the Remedies for Noncompliance section and permitted by the subaward.

Property Standards

Insurance Coverage

The local government must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with state funds as provided to property owned by the local government. State-owned property need not be insured unless required by the terms and conditions of the state award.

Real Property

Subject to the obligations and conditions set forth in state law, title to real property acquired or improved under a state award will vest upon acquisition in the local government. See the Property Trust Relationship section. Prior approval of the state awarding agency is required, prior to the acquisition of real property by the local government using grant funds. Except as otherwise provided by state statutes or by the state awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the local government must not dispose of or encumber its title or other interests.

A local government must use, manage, and dispose of real property acquired under a state award in accordance with applicable law. When real property is no longer needed for the originally authorized purpose or the state award expires or terminates, the local government must obtain written disposition instructions from the state awarding agency.

State-owned Property

Title to state-owned property remains vested with the state government. The local government must submit annually an inventory listing of all state-owned property in its custody to the state awarding agency. Upon completion of the state award or when the property is no longer needed, the local government must report the property to the state awarding agency for further state agency utilization.

Equipment

Subject to the obligations and conditions set forth in state law, title to equipment acquired under a state award will vest upon acquisition in the local government. Unless a statute specifically authorizes the state agency to vest title in the local government without further obligation to the state government, and the state agency elects to do so, the title must be a conditional title.[84]

Equipment must be used by the local government in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the state award. The local government must not encumber the property without prior written approval of the state awarding agency.

Prior written approval by the state awarding agency is required if the local government desires to use the equipment (1) for activities in support of other grant programs, (2) to provide services for a fee that is less than private companies charge for equivalent services, and (3) as a trade-in with the proceeds to offset the cost of replacement property.

The local government will manage the equipment (including replacement equipment), whether acquired in whole or in part under a state award, until disposition takes place in accordance with the following procedures:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property, who holds title, the acquisition date, and cost of the property, percentage of state participation in the project costs for the state award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years, and more frequently if required by statute or the award.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the local government is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(6) State awarding agency may specify additional requirements for Controlled Assets or other items of equipment, regardless of cost, with a high potential for loss.

[84] The concept of "conditional title" means that equipment ownership vests in the non-state entity at the time of acquisition and that it is contingent on meeting the requirements for use, management, and disposition of the equipment as required by these TxGMS, the state award, and applicable law.

A local government must use, manage, and dispose of equipment acquired under a state award by the local government in accordance with applicable law. The local government must obtain written disposition instructions from the state awarding agency when the original or replacement equipment acquired under a state award is no longer needed for the original project, program, or other authorized purpose or the state award expires or terminates, unless the per unit fair market value of the equipment is less than $5,000 or disposition instructions have been previously provided.

Supplies

Title to supplies will vest in the local government upon acquisition. A local government must use, manage, and dispose of supplies acquired under a state award by the local government in accordance with applicable law. The state awarding agency may specify additional requirements for Controlled Assets or other types of supplies, regardless of cost, with a high potential for loss.

If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program, the local government must either sell the supplies or retain them for use on other activities and compensate the state awarding agency for its share of the value. As long as the state government retains an interest in the supplies, the local government must not use supplies acquired under a state award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless prior written approval from the state awarding agency is obtained.

Intangible Property

Title to intangible property acquired under a state award vests upon acquisition in the local government. The local government must use the intangible property for the originally authorized purpose, and must not encumber the property without approval of the state awarding agency.

A local government must use, manage, and dispose of intangible property acquired under a state award by the local government in accordance with applicable law. If expressly provided in the state award, the local government may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a state award.

When no longer needed for the originally authorized purpose or the state award expires or terminates, the local government must obtain written disposition instructions from the state awarding agency. Absent statutory authority and specific terms and conditions in the state award, the local government will execute all papers and to perform such other property rights as necessary to transfer the intangible property to the state awarding agency.

Property Trust Relationship

Real property, equipment, and intangible property, that are acquired or improved with a state award must be held in trust by the local government as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The state awarding agency may require the local government to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a state award and that use and disposition conditions apply to the property. Absent statutory authority and specific terms and conditions in the state award, property acquired under the state award is state property.

Records pertaining to state property must be complete, accurate, and detailed.[85] Depending on the transaction, property purchased with state grant funds may be subject to the Statewide Property Accounting (SPA) system reporting requirements.[86] As general guidance, for a capital asset purchased with state grant funds to be reported by a state agency in the SPA system, the capital asset must be (1) placed into service by the state agency and (2) in the state agency's possession. The term "capital asset" is defined to be a possession of the State that has an estimated useful life of more than one year.[87] Grant program managers should consult with the Comptroller's Fiscal Management Division at spa@cpa.texas.gov to determine whether property purchased using state grant funds is to be reported in the SPA system.[88]

[85] *See generally* Chapter 403, Subchapter L, of the Texas Government Code for property accounting requirements for property belonging to the State and 34 TAC § 5.200 for rule pertaining to the Statewide Property Accounting System.

[86] TEX. GOV'T CODE § 403.272.

[87] 34 TAC § 5.200(a).

[88] *See generally* 34 TAC § 5.200(b) for certain exemptions to the SPA system reporting requirements.

Performance and Financial Monitoring and Reporting

Financial Reporting

Unless otherwise approved by the state awarding agency, the local government will provide financial information in the form and format prescribed by the state awarding agency. This information must be submitted to the state awarding agency with the frequency required by the terms and conditions of the state award, but no less frequently than annually nor more frequently than quarterly except where more frequent reporting is necessary for the effective monitoring of the state award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

Monitoring and Reporting Program Performance

Monitoring by the Local Government. The local government must be responsible for oversight of the operations of the state award supported activities. The local government must monitor its activities under state awards to assure compliance with applicable state requirements and performance expectations are being achieved. Monitoring by the local government must cover each program, function or activity.

Non-construction Performance Reports.

(1) The local government must provide performance information (*e.g.*, performance progress reports) in the form and format prescribed by the state awarding agency.

(2) These performance reports must be submitted to the state awarding agency at the interval required by the state awarding agency to best inform improvements in program outcomes and productivity. The intervals are no less frequently than annually nor more frequently than quarterly except where more frequent reporting is necessary for the effective monitoring of the state award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

(3) Annual reports must be due 90 calendar days after the reporting period unless otherwise specified in the state award; quarterly or semiannual reports must be due 30 calendar days after the reporting period unless otherwise specified in the state award. Alternatively, the state awarding agency may require annual reports before the anniversary dates of multiple year state awards. The final performance report will be due 90 calendar days after the period of performance end date unless otherwise specified in the state award. If a justified request is submitted by a local government, the state agency may extend the due date for any performance report.

(4) The local government must submit performance reports in a form and format approved by the state awarding agency. The performance reports will contain, for each state award, brief information on the following as well as any other information specified by the state awarding agency in the state award:

  (a) A comparison of actual accomplishments to the objectives of the state award established for the period. Where the accomplishments of the state award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the state awarding agency program, the state awarding agency should include this as a performance reporting requirement.

  (b) The reasons why established goals were not met, if appropriate.

  (c) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Construction Performance Reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by state awarding agencies to monitor progress under state awards and subawards for construction. The state awarding agency may require additional performance reports only when considered necessary. The local government will provide performance information in the form, format, and frequency prescribed by the state awarding agency.

Significant Developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the local government must inform the state awarding agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the state award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Site Visits. The state awarding agency may make site visits as warranted by program needs.

Waiver. The state awarding agency may waive any performance report required by this section if not needed.

Reporting on Real Property

Unless waived by the state awarding agency, the local government will submit reports at least annually on the status of real property in which the state government retains an interest.

Records Retention and Access

Unless otherwise directed by the state awarding agency, the local government will maintain and retain records pertinent to the state award (*e.g.*, financial records, performance records, supporting documents) until the third anniversary of the later date of (1) the grant completion or expiration, or (2) the resolution of all issues that arose from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the grant or documents.[89]

The state awarding agency may determine that certain records must be maintained by the state awarding agency.[90] Upon written request by the state awarding agency, the local government will promptly and in a secure manner transfer designated records into the custody of the state awarding agency. In order to avoid duplicate recordkeeping, the state awarding agency may make arrangements for the local government to access any records that are continuously needed for joint use.

The state awarding agency, the State Auditor's Office, or any of their authorized representatives, must have the right of access to any documents, papers, financial statements, or other records of the local government that are pertinent to the state award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the local government's personnel for the purpose of interview and discussion related to such documents. This right of access is not limited to the required retention period but lasts as long as the records are retained.

[89] In accordance with the Texas State Records Retention Schedule, 13 TAC § 6.10, the retention period specified in Section 441.1855 of the Texas Government Code does not apply to grant agreements.

[90] *Cf.* 13 TAC § 6.94(a)(9) (stating that each state agency must require all third-party custodians of records to provide the state agency with descriptions of their business continuity and/or disaster recovery plans as regards to the protection of the state agency's vital state records).

The local government shall comply with the requirements of the Texas Public Information Act.[91] If the local government receives a public information request for information related to the state award, the local government, unless the grant agreement directs otherwise, will provide notice of such request to the state awarding agency under Section 552.305(b) of the Texas Government Code. If the local government receives a court order or a subpoena requiring the production and disclosure of records related to the state award, then the local government, if not otherwise prohibited under the terms of the order or subpoena, will provide prompt written notice to the state awarding agency of the order or subpoena.

Remedies for Noncompliance

Additional Specific Conditions and Enforcement

If a local government fails to comply with statutes, rules, or the terms and conditions of a state award, the state awarding agency may impose additional specific conditions, as needed, under the following circumstances:

(1) When an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a state award;

(2) When an applicant or recipient fails to meet expected performance goals contained in a state award; or

(3) When an applicant or recipient is not otherwise responsible.

Additional specific conditions may include items such as the following:

(1) requiring payments as reimbursements rather than advance payments;

(2) withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;

(3) requiring additional, more detailed financial reports;

(4) requiring additional project monitoring;

(5) requiring the sub-grantee to obtain technical or management assistance; or

(6) establishing additional prior approvals.

[91] Chapter 552 of the Texas Government Code.

The state awarding agency must notify the local government as to:

(1) the nature of the additional requirements;

(2) the reason why the additional requirements are being imposed;

(3) the nature of the action needed to remove the additional requirement, if applicable;

(4) the time allowed for completing the actions if applicable, and

(5) the method for requesting reconsideration of the additional requirements imposed.

Once the circumstances that prompted the imposition of the specific conditions(s) have been corrected, the state awarding agency will remove the specific condition(s) upon written request of the local government.

If the state awarding agency determines that noncompliance cannot be remedied by imposing additional conditions, the state awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the local government or more severe enforcement action by the state awarding agency.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the state award.

(4) [Reserved]

(5) Withhold further state awards for the project or program.

(6) Take other remedies that may be legally available.

Termination

The state award may be terminated in whole or in part as follows:

(1) by the state awarding agency if the local government fails to comply with the terms and conditions of a state award;

(2) by the state awarding agency for cause;

(3) by the state awarding agency with the consent of the local government, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

(4) by the local government upon sending to the state awarding agency written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the state awarding agency determines in the case of partial termination that the reduced or modified portion of the state award or subaward will not accomplish the purposes for which the state award was made, the state awarding agency may terminate the state award in its entirety; or

(5) by the state agency for convenience.

When a state award is terminated or partially terminated, both the state awarding agency and the local government remain responsible for compliance with the requirements set forth in the Closeout and Post-Closeout Adjustments and Continuing Responsibilities sections.

Notification of Termination Requirement

The state awarding agency must provide to the local government a written notice of termination unless the state award is being terminated by the local government. If the local government initiates the termination of the state award, then the local government must provide written notice of the termination to the state awarding agency.

Opportunities to Object, Hearings, and Appeals

Upon taking any remedy for non-compliance, the state awarding agency must provide the local government an opportunity to object and provide information and documentation challenging the suspension or termination action. If the state awarding agency has established processes and procedures pertaining to such opportunities to object and provide documentation, the state awarding agency must follow those processes and procedures. The state awarding agency will comply with any requirements for hearings, appeals, or other administrative proceedings to which the local government is entitled under any statute or rule applicable to the action involved.

Effects of Suspension and Termination

Costs to the local government resulting from obligations incurred by the local government during a suspension or after termination of a state award are not allowable unless the state awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if:

(1) the costs result from obligations which were properly incurred by the local government before the effective date of suspension or termination, are not in anticipation of it; and

(2) the costs would be allowable if the state award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.

Closeout

The state awarding agency will close out the state award when it determines that all applicable administrative actions and all required work of the state award have been completed by the local government. Closeout activities include the following:

(1) No later than 90 calendar days after the end date of the period of performance or an earlier due date if specified by the state award, the local government must submit all financial, performance, and other reports as required by the terms and conditions of the state award. The state awarding agency may approve extensions when requested by the local government.

(2) Unless the state awarding agency authorizes an extension, the local government must liquidate all obligations incurred under the state award not later than the liquidation date indicated in the state award or 90 calendar days after the end date of the period of performance, whichever is earlier, as specified in the terms and conditions of the state award.

(3) Closeout activities are not complete if payment by the state awarding agency to the local government is outstanding for allowable reimbursable costs under the state award being closed out.

(4) The local government must promptly refund any balances of unobligated cash that the state awarding agency paid in advance or paid and that are not authorized to be retained by the local government for use in other projects.

(5) Consistent with the terms and conditions of the state award, the state awarding agency must make a settlement for any upward or downward adjustments to the State share of costs after closeout reports are received.

(6) The local government must account for any real and personal property acquired with state funds or received from the state government in accordance with the Property Standards and Performance and Financial Monitoring and Reporting sections.

(7) The state awarding agency should complete all closeout actions for state awards no later than one year after receipt and acceptance of all required final reports.

Post-Closeout Adjustments and Continuing Responsibilities

The closeout of a state award does not affect any of the following:

(1) The right of the state awarding agency to disallow costs and recover funds based on a later audit or other review. The state awarding agency must make any cost disallowance determination and notify the local government within the record retention period.

(2) The obligation of the local government to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.

(3) Audit Requirements of TxGMS.

(4) Property management and disposition requirements specified in the Property Standards section.

(5) Records retention as required by the Records Retention and Access section.

After closeout of the state award, a relationship created under the state award may be modified or ended in whole or in part with the consent of the state awarding agency and the local government, provided the responsibilities of the local government referred to in this section, including those for property management as applicable, are considered and provisions made for continuing responsibilities of the local government, as appropriate.

Collection of Amounts Due

Any funds paid to the local government in excess of the amount to which the local government is finally determined to be entitled under the terms of the state award constitute a debt to the State of Texas. If not paid within 90 calendar days after written demand, the state awarding agency may reduce the debt by:

(1) making an administrative offset against other requests for reimbursements;

(2) withholding advance payments otherwise due to the local government; or

(3) other action permitted by state statute.

Except as otherwise provided by state law, the state awarding agency may charge interest on an overdue debt in accordance with Chapter 2251 of the Texas Government Code, if it applies.

Cost Principles

General Provisions

POLICY GUIDE

The application of these Cost Principles is based on the following fundamental premises:

(1) The local government is responsible for the efficient and effective administration of the state award through the application of sound management practices.

(2) The local government assumes responsibility for administering state funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the state award.

(3) The local government, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the state award.

(4) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the local government. However, the accounting practices of the local government must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the state award. As an example, where records do not meet the standards set forth in TxGMS to support compensation for fringe benefits, the state awarding agency may require documentation in a format similar to the sample personnel activity report provided in Appendix 8.

(5) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the state awarding agency should generally assure that the local government is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the local government, the reasonableness and equity of such treatments should be fully considered.

(6) For local governments that educate and engage students in research, the dual role of students as both trainees and employees (including pre- and post-doctoral staff) contributing to the completion of state awards for research must be recognized in the application of these principles.

(7) The local government may not earn or keep any profit resulting from state financial assistance, unless explicitly authorized by state law and the terms and conditions of the state award. *See* the Program Income section of these TxGMS.

APPLICATION

These principles must be used in determining the allowable costs of work performed by the local government under state awards of grant funds. These principles also must be used by the local government as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to (1) fixed amount awards or (2) other awards under which the local government is not required to account to the state awarding agency for actual costs incurred.

Some nonprofit organizations, because of their size and nature of operations, can be considered by awarding entities to be similar to for-profit entities for purpose of applicability of cost principles. If the parties agree, such nonprofit organizations must operate under TxGMS cost principles applicable to for-profit entities.

Some of these principles apply exclusively to entities other than local governments. The purpose of including those is twofold. One, any parties may agree to apply TxGMS to a particular grant. Two, entities other than local governments may be subject to TxGMS as subrecipients of grants to which TxGMS applies.

Basic Considerations

COMPOSITION OF COSTS

The total cost of a state award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

FACTORS AFFECTING ALLOWABILITY OF COSTS

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under state awards:

(1) Be necessary and reasonable for the performance of the state award and be allocable thereto under these principles.

(2) Conform to any limitations or exclusions set forth in these principles or in the state award as to types or amount of cost items.

(3) Be consistent with policies and procedures that apply uniformly to both state-financed and other activities of the local government.

(4) Be accorded consistent treatment. A cost may not be assigned to a state award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the state award as an indirect cost.

(5) Be determined in accordance with GASB standards.

(6) Not be included as a cost or used to meet cost sharing or matching requirements of any other state financed program in either the current or a prior period.

(7) Be adequately documented. *See* the Standards for Financial and Program Management section.

REASONABLE COSTS

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the local government is predominantly state-funded. In determining reasonableness of a given cost, consideration must be given to:

(1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the local government or the proper and efficient performance of the state award.

(2) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of the state award.

(3) Market prices for comparable goods or services for the geographic area.

(4) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the local government, its employees, where applicable its students or membership, the public at large, and the state government.

(5) Whether the local government significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the state award's cost.

ALLOCABLE COSTS

General. A cost is allocable to a particular state award or other cost objective if the goods or services involved are chargeable or assignable to that state award or cost objective in accordance with relative benefits received. This standard is met if the cost:

(1) is incurred specifically for the state award;

(2) benefits both the state award and other work of the local government and can be distributed in proportions that may be approximated using reasonable methods; and

(3) is necessary to the overall operation of the local government and is assignable in part to the state award in accordance with the principles in the Cost Principles section.

Appropriate Allocation. All activities that benefit from the local government's indirect cost, including unallowable activities and donated services by the local government or third parties, will receive an appropriate allocation of indirect costs.

Restriction. Any cost allocable to a particular state award under the principles provided for in the Cost Principles section may not be charged to other state awards to overcome fund deficiencies, to avoid restrictions imposed by statutes, rules, or terms and conditions of the state awards, or for other reasons. However, this prohibition would not preclude the local government from shifting costs that are allowable under two or more state awards in accordance with existing statutes, rules, or the terms and conditions of the state awards.

Direct Cost Allocation Principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding the Restriction paragraph in this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a state award, the costs are assignable to the state award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. *See also* the Property Standards and Equipment and Other Capital Expenditures sections.

APPLICABLE CREDITS

Applicable credits refer to those receipts or reduction-of-expenditure-type transactions that offset or reduce expense items allocable to the state award as direct or indirect costs. Examples of such transactions are purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the local government relate to allowable costs, they must be credited to the state award either as a cost reduction or cash refund, as appropriate.

In some instances, the amounts received from the state government to finance activities or service operations of the local government should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) must be recognized in determining the rates or amounts to be charged to the state award.

PRIOR WRITTEN APPROVAL

Under any given state award, the reasonableness and allocability of certain items of costs may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or non-allocability, the local government may seek the prior written approval of the state awarding agency in advance of the incurrence of special or unusual costs. Prior written approval should include the timeframe or scope of the agreement. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or allocability of that element, unless prior approval is specifically required for allowability as described under certain circumstances in the following:

- Changes in principal investigator, project leader, project partner, or scope of effort must receive the prior written approval of the state awarding agency or pass-through entity
- Cost sharing or matching;
- Program income;
- Revision of budget and program plans;
- Real property;
- Equipment;
- Direct costs (pertaining to salaries of administrative and clerical staff);
- Compensation—personal services;
- Compensation—fringe benefits;
- Contingency Provisions;
- Depreciation;
- Entertainment costs;
- Equipment and other capital expenditures;
- Exchange rates;
- Fines, penalties, damages and other settlements;
- Fixed Amount Subawards;
- Fund raising and investment management costs;
- Goods or services for personal use;
- Insurance and indemnification;
- Memberships, subscriptions, and professional costs;
- Organization costs;
- Participant support costs;
- Pre-award costs;
- Rearrangement and reconversion costs;
- Scholarships and Student Aid;
- Selling and marketing costs;
- Taxes (including Value Added Tax); and
- Travel costs.

LIMITATION ON ALLOWANCE OF COSTS

The state award may be subject to statutory requirements that limit the allowability of costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the Costs Priciples in TxGMS, the amount not recoverable under the state award may not be charged to the state award.

SPECIAL CONSIDERATIONS

Overview. In addition to the basic considerations regarding the allowability of costs highlighted in this section, certain provisions describe special considerations and requirements applicable to certain types of non-state entities (*e.g.*, local government, IHEs, Indian Tribes).

Cost Allocation Plans and Indirect Proposals. For states, local governments, and Indian Tribes, certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provided to operating agencies on a centralized basis. Because state awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process.

Individual operating agencies (governmental department or agency), normally charge state awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under state awards. Indirect costs include:

(1) the indirect costs originating in each department or agency of the governmental unit carrying out state awards and

(2) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

(3) For purposes of a state award, the general requirements for development of cost allocation plans (for central service costs) and indirect cost rate proposals for submission to the state awarding agency or pass-through entity are comparable to the requirements found in Appendices IV (Indirect (F & A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations), V (State/Local Governmentwide Central Service Cost Allocation Plans), and VII (States and Local Government and Indian Tribe Indirect Cost Proposals) to the *Uniform Guidance*.

Interagency Service. The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to 10 percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans.

Costs Incurred or Paid by a State or Local Government. Costs incurred or paid by a state or local government on behalf of its IHEs for fringe benefit programs, such as pension costs and FICA and any other costs specifically incurred on behalf of, and in direct benefit to, the IHEs, are allowable costs of such IHEs whether or not these costs are recorded in the accounting records of the institutions, subject to the following:

(1) The costs meet the requirements of the Basic Considerations section;

(2) The costs are properly supported by approved cost allocation plans in accordance with applicable state cost accounting principles in TxGMS; and

(3) The costs are not otherwise borne directly or indirectly by the state government.

COLLECTION OF UNALLOWABLE COSTS

Payments made for costs determined to be unallowable by the state awarding agency or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the state government in accordance with instructions from the state agency that determined the costs are unallowable unless state statute or rule directs otherwise. *See also* the Standards for Financial and Program Management section.

ADJUSTMENT OF PREVIOUSLY NEGOTIATED INDIRECT COST RATES CONTAINING UNALLOWABLE COSTS

Negotiated indirect cost rates based on a proposal later found to have included costs that:

(1) Are unallowable as specified by state statutes, rules, or the terms and conditions of a state award; or

(2) Are unallowable because they are not allocable to the state award(s), must be adjusted, or a refund must be made, in accordance with the requirements of this section. These adjustments or refunds are designed to correct the proposals used to establish the rates and do not constitute a reopening of the rate negotiation. The adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

For rates covering a future fiscal year of the local government, the unallowable costs will be removed from the indirect cost pools and the rates appropriately adjusted.

For rates covering a past period, the State share of the unallowable costs will be computed for each year involved and a cash refund (including interest chargeable in accordance with applicable regulations) will be made to the state government. If cash refunds are made for past periods covered by provisional or fixed rates, appropriate adjustments will be made when the rates are finalized to avoid duplicate recovery of the unallowable costs by the state government.

For rates covering the current period, either a rate adjustment or a refund, as described in this section, must be required by the state awarding agency. The choice of method must be at the discretion of the state awarding agency, based on its judgment as to which method would be most practical.

The amount or proportion of unallowable costs included in each year's rate will be assumed to be the same as the amount or proportion of unallowable costs included in the base year proposal used to establish the rate.

Classification of Costs

There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the state award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or as an indirect cost in order to avoid possible double-charging of state awards. Guidelines for determining direct and indirect costs charged to Federal awards are provided in TxGMS.

Direct Costs

General. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a state award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

Application to State Awards. Identification with the state award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of state awards. Typical costs charged directly to a state award are the compensation of employees who work on that award, their related fringe benefit costs, the costs of materials and other items of expense incurred for the state award. If directly related to a specific award, certain costs that otherwise would be treated as indirect costs may also include extraordinary utility consumption, the cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations.

Salaries of Administrative and Clerical Staff. The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

(1) administrative or clerical services are integral to a project or activity;

(2) individuals involved can be specifically identified with the project or activity;

(3) such costs are explicitly included in the budget or have the prior written approval of the state awarding agency; and

(4) the costs are not also recovered as indirect costs.

Minor Items. Any direct cost of minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all state and non-state cost objectives.

Costs of Certain Activities. The costs of certain activities are not allowable as charges to state awards. However, even though these costs are unallowable for purposes of computing charges to state awards, they nonetheless must be treated as direct costs for purposes of determining indirect cost rates and be allocated their equitable share of the local government's indirect costs if they represent activities which:

(1) include the salaries of personnel,

(2) occupy space, and

(3) benefit from the local government's indirect costs.

Nonprofit Organizations. For nonprofit organizations, the costs of activities performed by the nonprofit organization primarily as a service to members, clients, or the general public when significant and necessary to the nonprofit organization' mission must be treated as direct costs whether or not allowable, and be allocated an equitable share of indirect costs. Some examples of these types of activities include:

(4) Maintenance of membership rolls, subscriptions, publications, and related functions. *See also* Memberships, Subscriptions, and Professional Activity Costs.

(5) Providing services and information to members, legislative or administrative bodies, or the public. *See also* Memberships, Subscriptions, and Professional Activity Costs and Lobbying.

(6) Promotion, lobbying, and other forms of public relations. *See also* Advertising and Public Relations and Lobbying.

(7) Conferences except those held to conduct the general administration of the nonprofit organization. *See also* Conferences.

(8) Maintenance, protection, and investment of special funds not used in operation of the nonprofit organization. *See also* Fund Raising and Investment Management Costs.

(9) Administration of benefits on behalf of members or clients, including life and hospital insurance, annuity or retirement plans, and financial aid. *See also* Compensation—Fringe Benefits.

Indirect Costs

General. Indirect costs are those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

Facilities and Administration Classification. For major IHEs and major nonprofit organizations, indirect (F&A) costs must be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable). For nonprofit organizations, library expenses are included in the "Administration" category; for institutions of higher education, they are included in the "Facilities" category. Major IHEs are defined as those required to use the Standard Format for Submission as noted in Appendix III to 2 CFR Part 200. Major nonprofit organizations are those that receive more than $10 million dollars in direct Federal funding.

Diversity of Nonprofit Organizations. Because of the diverse characteristics and accounting practices of nonprofit organizations, it is not possible to specify the types of cost that may be

classified as indirect cost in all situations. Identification with a state award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of state awards. However, typical examples of indirect cost for many nonprofit organizations may include depreciation on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

Negotiated Indirect Cost Rate.

(1) A non-state entity may elect to negotiate an indirect cost rate with the state awarding agency by submitting an Indirect Cost Rate Proposal accompanied by the appropriate required certification.

(2) If the non-state entity desires to leverage its approved federally negotiated indirect cost rate, the non-state entity may submit to the state awarding agency a copy of the federal cognizant agency approved indirect cost proposal.

(3) The state awarding agency will review the proposal to ensure the rate complies with state law and the documentation upon which the plan was negotiated is not inaccurate, materially incomplete, or out of date. The state awarding agency may consult with the federal cognizant agency for indirect costs. The state awarding agency should make publicly available the policies, procedures and general decision-making criteria that its programs will follow to seek and justify deviations from negotiated rates.

(4) A state awarding agency may use a rate different from the negotiated rate approved by the federal cognizant agency when required by statute or rule, or when approved by a state awarding agency head or delegate based on a written explanation justifying the deviation from the federal negotiated rate.

(5) The results of the negotiation will be formalized in a written agreement between the state awarding agency and the local government.

(6) Any non-state entity that has a current negotiated indirect cost rate with a state awarding agency may apply for an extension of the rates in the agreement for a period of up to four years. The indirect cost rate extension request will be subject to the review and approval of the state awarding agency. If an extension is granted, the non-state entity may not request a rate review until the extension period ends. At the end of the four–year extension, the non-state entity must re-apply to negotiate a rate. Subsequent one-time extensions (up to four years) are permitted if a renegotiation is completed between each extension request.

(7) **Types of Negotiated Rates**

- *Predetermined rate* means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.
- *Fixed rate* means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.
- *Final rate* means an indirect cost rate applicable to a specified past period that is based on the actual costs of the period. A final rate is not subject to adjustment.
- *Provisional rate or billing rate* means a temporary indirect cost rate applicable to a specified period that is used for funding, interim reimbursement, and reporting indirect costs on state awards pending the establishment of a final rate for the period.

10% de minimis Indirect Cost Rate.

(1) A de minimis rate of up to 10% of Modified Total Direct Costs (MTDC) is available to non-state entities under the following circumstances:

(a) A non-state entity that has never received a state or federal negotiated indirect cost rate may elect to charge the de minimis rate of up to 10% of MTDC that may be used indefinitely.

(b) If approved by the state awarding agency, a non-state entity may charge a de minimis rate of up to 10% of MTDC if the non-state entity provides evidence of an out-of-date state or federal approved negotiated indirect cost rate of 10% or less.

(c) Unless approved by the state awarding agency, entities that experience a break in the state relationship (*e.g.,* expiration or termination of all awards with the state awarding agency) are not eligible to receive a de minimis rate of up to 10% MTDC upon receipt of a new award.

(d) Unless approved by the state awarding agency, a governmental department or agency unit that receives more than $35 million in direct federal funding per the non-state entity's fiscal year is not eligible for the de minimis rate of up to 10% of MTDC.

(2) MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges

for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of $25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the state awarding agency.

(3) The availability of the de minimis rate is generally limited to a non-state entity that has never received a negotiated indirect cost rate. It is expected that entities that have experience developing and negotiating rates have adequate resources to develop a new indirect cost rate.

(4) As described in Factors Affecting Allowability of Costs section, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all state awards until such time as a non-state entity chooses to negotiate for a rate, which the non-state entity may apply to do at any time.

Voluntary Waiver or Under-Charge of Indirect Cost Rate. A non-state entity may voluntarily under-charge or waive the indirect cost rate to allow for a greater share of the state program funds to be used for the direct program costs.

Refunds. Refunds must be made under every applicable award if proposals are later found to have included costs that (a) are unallowable (i) as specified by law or regulation, (ii) as identified in Considerations for Selected Items of Cost, or (iii) by the terms and conditions of the state award, or (b) are unallowable because they are clearly not allocable to the state award. These adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

Required Certifications

Required certifications include:

(1) To assure that expenditures are proper and in accordance with the terms and conditions of the state award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the local government, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the state award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise."

(2) Certification of cost allocation plan or indirect cost rate proposal. Each cost allocation plan or indirect cost rate proposal must comply with the following:

(a) A proposal to establish a cost allocation plan or an indirect cost rate, submitted to the state awarding agency or maintained on file by the local government, must be certified by the local government using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth below. The certificate must be signed on behalf of the local government by an individual at a level no lower than executive director or chief financial officer of the local government that submits the proposal.

CERTIFICATE OF COST ALLOCATION PLAN

This is to certify that I have reviewed the cost allocation plan submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish cost allocations or billings for [identify period covered by plan] are allowable in accordance with the requirements of TxGMS and the state award(s) to which they apply. Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to state awards based on a beneficial or causal relationship between the expenses incurred and the state awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently.

I declare that the foregoing is true and correct.

Governmental Unit:

Signature:

Name of Official:

Title:

Date of Execution:

CERTIFICATE OF INDIRECT COSTS

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish billing or final indirect costs rates for [identify period covered by rate] are allowable in accordance with the requirements of the state award(s) to which they apply and the provisions of TxGMS. Unallowable costs have been adjusted for in allocating costs as indicated in the indirect cost proposal.

(2) All costs included in this proposal are properly allocable to state awards based on a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the state government will be notified of any accounting changes that would affect the predetermined rate.

I declare that the foregoing is true and correct.

Governmental Unit:

Signature:

Name of Official:

Title:

Date of Execution:

(b) The state government may either disallow all indirect costs or unilaterally establish such a plan or rate when the local government fails to submit a certified proposal for establishing such a plan or rate in accordance with the requirements. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the state awarding agency and for which it can be demonstrated that all unallowable costs have been excluded. When the state government unilaterally establishes a cost allocation plan or indirect cost rate because the local failed to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.

(3) Certifications by nonprofit organizations as appropriate that they did not meet the definition of a major nonprofit organization as defined in the Indirect Costs section.

General Provisions for Selected Items of Cost

CONSIDERATIONS FOR SELECTED ITEMS OF COST

This section provides principles to be applied in establishing the allowability of certain items involved in determining cost that are in addition to the requirements set forth in the Basic Considerations section which include the following:

- Composition of Costs
- Factors Affecting Allowability of Costs
- Reasonable Costs
- Allocable Costs
- Applicable Credits
- Prior Written Approval
- Limitation on Allowance of Costs
- Special Considerations
- Collection of Unallowable Costs
- Adjustment of Previously Negotiated Indirect Cost Rates Containing Unallowable Costs

These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles described in the Basic Considerations section.

SELECTED ITEMS OF COST

The selected items of cost are listed in Appendix 7, with a supplement of additional requirements applicable to certain state grant program cost items that are prescribed by the Comptroller under the authority of Chapter 783 of the Texas Government Code. In case of a discrepancy between a specific state law and state policy, the state law governs.

Audits

Audit Requirements

AUDIT REQUIRED

General. A local government that expends more than $750,000 during its fiscal year in state awards must have either a Financial Audit or Program-specific Audit conducted for that year in accordance with the provisions of this section. As noted in Relation to Other Audit Requirements, the state awarding agency may also require an independent audit to be conducted based factors other than monetary threshold. All audits must be conducted in accordance with GAGAS.

A local government that is exempt from state audit requirements must keep its records available for review or audit by appropriate officials of the state awarding agency, pass-through entity, and State Auditor's Office.

Frequency of Audit. Required audits will be performed on an annual basis. If the auditee is required by statute to undergo its audits less frequently than annually, then the auditee shall perform its audit biennially.

Federal Single Audit. Instead of a Financial Audit or Program-specific Audit, a state awarding agency, at its discretion, may accept the single audit of the local government prepared in compliance with the *Uniform Guidance* if the state awarding agency determines that the federal single audit sufficiently addresses internal controls and other grant requirements as they relate to the particular state award.

Agreed-upon Procedures Audit. Instead of a Financial Audit or Program-specific Audit, a state awarding agency may accept an agreed-upon procedures audit if it determines that the audit sufficiently reviews financial processes and controls of the local government and adopts an administrative rule containing requirements for the audit.

MAJOR PROGRAM DETERMINATION

General. To determine audit requirements, an auditor must determine if the state grant is a major program. Auditors must determine which state programs are major programs using a risk-based approach which must consider:

- current and prior audit experience,
- oversight by a state agency or other pass-through entities, and
- the inherent risk of the state program.

The auditor will identify and label the major programs as either Type A or Type B depending on state award expended and other identified program risks.

TABLE 1: MAJOR PROGRAM DETERMINATION

Total State Awards Expended	Type A/B Threshold
Equal to or exceed $750,000 but less than or equal to $25 million	$750,000
Exceed $25 million but less than or equal to $100 million	Total State awards expended multiplied by 0.03
Exceed $100 million but less than or equal to $1 billion	$3 million
Exceed $1 billion but less than or equal to $10 billion	Total State awards expended multiplied by 0.003
Exceed $10 billion but less than or equal $20 billion	$30 million
Exceed $20 billion	Total State awards expended multiplied by 0.0015

Type A programs. Type A programs are identified as those major programs with state awards expended during the audit period exceeding the levels outlined in Table 1. Those state programs not labeled as Type A based on Table 1 must be labeled Type B programs.

Low risk. Auditors must identify Type A programs that are low risk. To be considered low risk, a program must have:

- been audited as a major program in at least one of two most recent audit periods; and
- not have had internal control deficiencies (identified as material weaknesses), a modified opinion on the program, or known or likely questioned costs that exceed 5% of the total state awards expended for the program.

A state awarding agency may require that a Type A program not be considered low risk for a certain recipient.

Type B programs. Auditors must identify Type B programs that are high risk. Auditors are not required to identify more high-risk Type B programs than at least one-fourth the number of Type A programs identified as low risk.

Minimum Audit Requirements for Major Programs. An auditor must audit all the following as major programs:

- All Type A programs not identified as low risk.
- All Type B programs identified as high risk.
- Such additional programs as may be necessary to comply with the percentage of coverage.

Percentage of Coverage. When a local government's Type A major programs are designated as low risk, an auditor need only audit those Type B major programs that are identified as high risk as well as other state programs with state awards expended that, in aggregate, all major programs encompass at least 20% (0.20) of total state funds expended. Otherwise, an auditor must audit all the major programs identified as high risk, as well as other state programs with state awards expended that, in aggregate, all major programs encompass at least 40% (0.40) of the total state awards expended.

FINANCIAL AUDIT

The Financial Audit must cover the entire operations of the auditee, or, at the option of the auditee, such audit must include a series of audits that cover departments, agencies, and other organizational units that expended or otherwise administered state awards during such audit period, provided that each such audit must encompass the Financial Statements and Schedule of Expenditures of State Awards for each such department, agency, and other organizational unit, which must be considered to be a non-state entity. The financial statements and schedule of expenditures of state awards must be for the same audit period.

PROGRAM-SPECIFIC AUDIT

General. When an auditee expends state awards under only one state program, excluding research and development (R&D) and the state program's statutes, rules, or the terms and conditions of the state award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with this section. A program-specific audit may not be elected for R&D unless all of the state awards expended were received from the same state agency or the state awarding agency approves in advance a program-specific audit.

Program-specific Audit Guide Available. In some cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal controls, compliance requirements, suggested audit procedures, and audit reporting requirements. The auditor will contact the state awarding agency to determine whether such a guide is available. When a current program-specific audit guide is available, the auditor must follow GAGAS and the guide when performing a program-specific audit.

Program-specific Audit Guide Not Available. When a current program-specific audit guide is not available, the auditee and auditor must comply with the following standards:

(1) **Financial Statements**. The auditee must prepare the financial statements for the state program that includes, at a minimum, the following: (1) a description of the significant accounting policies used, (2) a summary schedule of prior audit findings, and (3) a corrective action plan.

(2) **Auditors Responsibilities**. The auditor must:

(a) Perform an audit of the financial statements for the state program in accordance with GAGAS.

(b) Obtain an understanding of internal controls and perform tests of internal controls over the state program. The auditor must report a significant deficiency or material weakness, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(c) Perform procedures to determine whether the auditee has complied with state and federal laws, rules, and the terms and conditions of state awards that could have a direct and material effect on the state program. The compliance testing must include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient appropriate audit evidence to support an opinion on compliance.

(d) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding.

(e) Report any audit findings consistent with the requirements of the Audit Findings section.

(3) **Audit Reporting**. The auditor's reports may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) must state that the audit was conducted in accordance with this section and include the following:

(a) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the state program is presented fairly in all material respects in accordance with the stated accounting policies;

(b) A report on internal control related to the state program, which must describe the scope of testing of internal control and the results of the tests;

(c) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, rules, and the terms and conditions of state awards which could have a direct and material effect on the state program; and

(a) A schedule of findings and questioned costs for the state program that includes a summary of the auditor's results relative to the state program and findings and questioned costs consistent with the following:

1. A summary of the auditor's results, which must include:

(i) The type of report the auditor issued on whether the financial statements audited were prepared in accordance with GAAP (unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control were disclosed by the audit of the financial statements;

(iii) A statement as to whether the audit disclosed any noncompliance that is material to the financial statements of the auditee;

(iv) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control over major programs were disclosed by the audit;

(v) The type of report the auditor issued on compliance for major programs (unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(vi) A statement as to whether the audit disclosed any audit findings that the auditor is required to report under the Audit Findings section; and

(vii) An identification of each individual program.

2. Findings and questioned costs for state awards that must include audit findings

(i) Audit findings (*e.g.,* internal control findings, compliance findings, questioned costs, or fraud) that relate to the same issue must be presented as a single audit finding. Where practical, audit findings should be organized by state agency.

(ii) Audit findings that relate to both the financial statements and state awards must be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

(4) **Report Submission to State Awarding Agency**. Report submission requirements for program-specific audits include the following:

(a) The audit must be completed and the reporting package must be submitted by the auditee within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

(b) Unless restricted by law or rule, the auditee must make copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information.

(c) The reporting package for a program-specific audit must consist of the financial statement(s) of the state program, a Summary Schedule of Prior Audit Findings, a corrective action plan, and the auditor's report(s).

COORDINATED AUDIT

In lieu of multiple audits of individual programs, a local government receiving state-administered assistance may request by action of its governing body a single audit or coordinated audits by all state agencies from which it receives funds.[92] The local government's request for a single audit or audit coordination should be directed

[92] TEX. GOV'T CODE § 783.008(a).

to SPD via email at txgms@cpa.texas.gov. On receipt of a request for a single audit or audit coordination, the Comptroller in consultation with SAO must not later than the 30th day after the date of the request designate a single state agency to coordinate state audits of the local government.[93] With the exception of audits conducted by the Comptroller and SAO, the designated state agency must, to the extent practicable, assure single or coordinated state audits of the local government for as long as the designation remains in effect or until the local government by action of its governing body withdraws its request for audit coordination.[94]

SUB-GRANTEES AND CONTRACTORS

An auditee may simultaneously be a grantee, a sub-grantee, and a contractor. State awards expended as a grantee or a sub-grantee are subject to audit under this section. The payments received for goods or services provided as a contractor are not state awards. Refer to the Sub-grantee and Contractor Determination section for the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

COMPLIANCE RESPONSIBILITY FOR CONTRACTORS

In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with state statutes, rules, and the terms and conditions of state awards. State award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions that are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance.

Relation to Other Audit Requirements

TxGMS do not limit the authority of state agencies to conduct, or arrange for the conduct of, audits and evaluations of state awards, nor limit the authority of any state agency official. The state agency, the state agency's authorized auditors, and the SAO may conduct or arrange for additional audits that may be necessary to carry out the state agency's responsibilities under state statutes, rules, or the terms and conditions of the state award. Any additional audits should be planned and performed in such a way as to build upon work performed, including the audit documentation, sampling, and testing already performed, by other auditors. To the extent a recent audit meets the state agency's needs, the state agency may rely upon and use the prior audit.

[93] TEX. GOV'T CODE § 783.008(b).

[94] TEX. GOV'T CODE §§ 783.008(c)-(d).

Sanctions

In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, the state awarding agency must take appropriate action as provided in the Remedies for Non-compliance section.

Auditees

AUDITEE RESPONSIBILITIES

The auditee must:

(1) Procure or otherwise arrange for the audit required by the Auditor Selection section and ensure it is properly performed and submitted when due.

(2) Prepare appropriate financial statements in accordance with the Financial Statements section.

(3) Promptly follow up and take corrective action on audit findings, including preparation of a Summary Schedule of Prior Audit Findings and a Corrective Action Plan.

(4) Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by TxGMS.

AUDITOR SELECTION

Auditor Procurement. In procuring audit services, the auditee must follow its own documented procurement procedures that reflect applicable state law (*e.g.*, Chapter 2254, Subchapter B of the Texas Government Code), including conflict of interest standards. When procuring audit services, the objective is to obtain high-quality audits. In requesting proposals for audit services, the objectives and scope of the audit must be made clear and the local government must request a copy of the audit organization's peer review report which the auditor is required to provide under GAGAS. If not otherwise prescribed by applicable law, factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price. Whenever possible, the auditee must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services.

Restriction on Auditor Preparing Indirect Cost Proposals. In addition to any state law restrictions, an auditor or audit organization who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by TxGMS when the indirect costs recovered by the auditee during the prior

year exceeded $1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs.

Restriction Relating to Non-Audit Services. In addition to any state law restrictions, an auditor or audit organization providing non-audit services to the auditee may not also be selected to perform the audit required by TxGMS if provision of such services impairs auditor independence in accordance with GAGAS.

Use of State Auditors. State auditors may perform all or part of the work required under this part if they comply fully with the requirements of this section.

FINANCIAL STATEMENTS

Financial Statements. The auditee must prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements must be for the same organizational unit and fiscal year that is chosen to meet the requirements of this section. However, the entity-wide financial statements may also include departments, agencies, and other organizational units that have separate audits and prepare separate financial statements.

Schedule of Expenditures of State Awards. The auditee must also prepare a schedule of expenditures of state awards for the period covered by the auditee's financial statements that must include the total awards expended. While not required, the auditee may choose to provide information requested by state awarding agencies and pass-through entities to make the schedule easier to use. For example, when a state program has multiple state award years, the auditee may list the amount of state awards expended for each state award year separately. At a minimum, the schedule must:

(1) List individual state programs by state agency. For a cluster of programs, provide the cluster name, list individual state programs within the cluster of programs, and provide the applicable state agency name. For R&D, total state awards expended must be shown either by individual state award or by state agency and major subdivision within the state agency.

(2) For state awards received as a sub-grantee, the name of the pass-through entity and identifying number assigned by the pass-through entity must be included.

(3) Provide total state awards expended for each individual state program and state grant identifying number. For a cluster of programs, also provide the total for the cluster.

(4) Include the total amount provided to sub-grantees from each state program.

(5) Include notes that describe that significant accounting policies used in preparing the schedule, and note whether or not the auditee elected to use the 10% de minimis Indirect Cost Rate.

AUDIT FINDINGS FOLLOW-UP

General. The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee must prepare a Summary Schedule of Prior Audit Findings. The auditee must also prepare a Corrective Action Plan for current year audit findings. The Summary Schedule of Prior Audit Findings and the Corrective Action Plan must include the reference numbers the auditor assigns to audit findings. Because the summary schedule may include audit findings from multiple years, it must include the fiscal year in which the finding initially occurred. The corrective action plan and summary schedule of prior audit findings must include findings relating to the financial statements that are required to be reported in accordance with GAGAS.

Summary Schedule of Prior Audit Findings. The Summary Schedule of Prior Audit Findings must report the status of all audit findings included in the prior audit's schedule of findings and questioned costs. The summary schedule must also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in clause (1) or no longer valid or not warranting further action in clause (3) as described below:

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule must describe the reasons for the finding's recurrence and planned corrective action, and any partial corrective action taken. When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the state agency's management decision, the summary schedule must provide an explanation.

(3) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position must be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

- two years have passed since the audit report in which the finding occurred was submitted to the state awarding agency, pass-through entity, or oversight agency for the federal single audit;

- the state awarding agency, pass-through entity, or oversight agency for the federal single audit is not currently following up with the auditee on the audit finding; and
- a management decision was not issued.

Corrective Action Plan. At the completion of the audit, the auditee must prepare, in a document separate from the auditor's findings as described in the Audit Findings section, a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons.

REPORT SUBMISSION TO STATE AWARDING AGENCY

General. The audit must be completed and the reporting package must be submitted by the auditee within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day. Unless restricted by law or rule, the auditee must make copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information.

Reporting Package. The reporting package must include the:

(1) Financial Statements and Schedule of Expenditures of State Awards discussed in the Financial Statements section;

(2) Summary Schedule of Prior Audit Findings discussed in the Audit Findings Follow-up section;

(3) Auditor's report(s) discussed in the Audit Reporting section; and

(4) Corrective action plan discussed in the Audit Findings Follow-up section.

Requests for Management Letters Issued by the Auditor. In response to requests by a state agency or pass-through entity, auditees must submit a copy of any management letters issued by the auditor.

Report Retention Requirements. Auditees must retain one copy of the reporting package described in this section on file until the third anniversary of the later date of (1) the contract completion or expiration, or (2) the resolution of all issues that arose from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or documents.

State Awarding Agency Responsibilities

The state awarding agency must perform the following for the state awards it makes:

(1) Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of TxGMS.

(2) Provide technical advice and counsel to auditees and auditors as requested.

(3) Follow up on audit findings to ensure that the local government takes appropriate and timely corrective action. As part of audit follow-up, the state awarding agency must:

(a) issue a management decision as prescribed in the Management Decision section;

(b) monitor the local government taking appropriate and timely corrective action; and

(c) use audit follow-up techniques as appropriate, to improve state program outcomes through better audit resolution, follow-up, and corrective action.

Auditors

AUDIT REPORTING FOR FINANCIAL AUDIT

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) must state that the audit was conducted in accordance with this part and include the following:

(1) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of state awards is fairly stated in all material respects in relation to the financial statements as a whole.

(2) A report on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements. This report must describe the scope of testing of internal control and compliance and the results of the tests, and, where applicable, it will refer to the separate schedule of findings and questioned costs described in this section.

(3) A report on compliance for each program and a report on internal control over compliance. This report must describe the scope of testing of internal control over compliance, include an opinion or disclaimer of opinion as to whether the

auditee complied with statutes, regulations, and the terms and conditions of state awards which could have a direct and material effect on each program and refer to the separate schedule of findings and questioned costs described in this section.

(4) A schedule of findings and questioned costs that must include the following three components:

(a) A summary of the auditor's results, which must include:

(i) The type of report the auditor issued on whether the financial statements audited were prepared in accordance with GAAP (unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control were disclosed by the audit of the financial statements;

(iii) A statement as to whether the audit disclosed any noncompliance that is material to the financial statements of the auditee;

(iv) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control over the programs were disclosed by the audit;

(v) The type of report the auditor issued on compliance for programs (unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(vi) A statement as to whether the audit disclosed any audit findings that the auditor is required to report under the Audit Findings section; and

(vii) An identification of programs by listing each individual program; however in the case of a cluster of programs only the cluster name as shown on the Schedule of Expenditures of Federal Awards is required.

(b) Findings relating to the financial statements that are required to be reported in accordance with GAGAS.

(c) Findings and questioned costs for state awards that must include audit findings as defined in the Audit Findings section.

(i) Audit findings (*e.g.,* internal control findings, compliance findings, questioned costs, or fraud) that relate to the same issue must be presented as a single audit finding. Where practical, audit findings should be organized by state agency or pass-through entity.

(ii) Audit findings that relate to both the financial statements and state awards, as reported under paragraphs (4)(b) and (4)(c) of this section, respectively, must be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

AUDIT FINDINGS FOR FINANCIAL AUDIT

Audit Findings Reported. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs.

(2) Material noncompliance with the provisions of state or federal law, rules, or the terms and conditions of state awards.

(3) Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion of compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

- Auditors must report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program.
- If the known questioned costs are greater than $25,000 for a state program that is not being audited as a major program, no audit finding needs to be reported (unless the auditor is made aware of the questioned costs as a result of an audit follow-up or other audit procedure).

(4) The circumstances concerning why the auditor's report on compliance for each program is other than an unmodified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for state awards.

(5) Known or likely fraud affecting a state award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for state awards. This paragraph does not require the auditor to report publicly information that could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's reports under the direct reporting requirements of GAGAS.

(6) Instances where the results of audit follow-up procedures disclosed that the Summary Schedule of Prior Audit Findings prepared by the auditee materially misrepresents the status of any prior audit finding.

Audit Finding Detail and Clarity. Audit findings must be presented in sufficient detail and clarity for the auditee to prepare a corrective action plan and take corrective action, and for state agencies to arrive at a Management Decision. The following specific information must be included, as applicable, in audit findings:

(1) state program and specific state award identification including the program title and number, state award identification number, if applicable, and year, and name of state agency. When information, such as the program title and number or state award identification number, is not available, the auditor must provide the best information available to describe the state award.

(2) The criteria or specific requirement upon which the audit finding is based, including the state and federal law, rules, or the terms and conditions of the state awards. Criteria generally identify the required or desired state or expectation with respect to the program or operation. Criteria provide a context for evaluating evidence and understanding findings.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) A statement of cause that identifies the reason or explanation for the condition or the factors responsible for the difference between the situation that exists (condition) and the required or desired state (criteria), which may also serve as a basis for recommendations for corrective action.

(5) The possible asserted effect to provide sufficient information to the auditee and state agency to permit them to determine the cause and effect to facilitate prompt and proper corrective action. A statement of the effect or potential effect should provide a clear, logical link to establish the impact or potential impact of the difference between the condition and the criteria.

(6) Identification of questioned costs and how they were computed. Known questioned costs must be identified by state program name and applicable state award identification number.

(7) Information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified must be related to the universe and the number of cases examined and be quantified in terms of dollar value. The auditor should report whether the sampling was a statistically valid sample.

(8) Identification of whether the audit finding was a repeat of a finding in the immediately prior audit and if so any applicable prior year audit finding numbers.

(9) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.

(10) Views of responsible officials of the auditee.

Reference Numbers. Each audit finding in the schedule of findings and questioned costs must include a reference number to allow for easy referencing of the audit findings during follow-up.

AUDIT DOCUMENTATION

Retention of Audit Documentation. The auditor must retain audit documentation and reports until the third anniversary of the later date of (1) the contract completion or expiration, or (2) the resolution of all issues that arose from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or documents. When the auditor is aware that the state agency or auditee is contesting an audit finding, the auditor must contact the parties contesting the audit finding for guidance prior to destruction of the audit documentation and reports.

Access to Audit Documentation. Audit documentation must be made available upon request to the state agency or State Auditor's Office to resolve audit findings, or to carry out oversight responsibilities. Access to audit documentation includes the right of state agencies to obtain copies of audit documentation, as is reasonable and necessary.

CRITERIA FOR STATE PROGRAM RISK

General. The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring that could be material to the state program. The auditor must consider criteria, such as described in of this section, to identify risk in state programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular state program with auditee management and the state awarding agency.

Current and Prior Audit Experience.

(1) Weaknesses in internal control over state programs would indicate higher risk. Consideration should be given to the control environment over state programs and such factors as the expectation of management's adherence to state and federal statutes, rules, and the terms and conditions of state awards and the competence and experience of personnel who administer the state programs.

(a) A state program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor must consider whether weaknesses are isolated in a single operating unit (*e.g.,* one college campus) or pervasive throughout the entity.

(b) When significant parts of a state program are passed through to sub-grantees, a weak system for monitoring sub-grantees would indicate higher risk.

(2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a state program or have not been corrected.

Oversight Exercised by State Agencies.

(1) Oversight exercised by state agencies could be used to assess risk. For example, recent monitoring or other reviews performed by an oversight entity that disclosed no significant problems would indicate lower risk, whereas monitoring that disclosed significant problems would indicate higher risk.

(2) State agencies may identify state programs that are higher risk.

Inherent Risk of the State Program.

(1) The nature of a state program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the state program contracts for goods and services. For example, state programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk.

(2) The phase of a state program in its life cycle at the state agency may indicate risk. For example, a new state program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in state programs, statutes, regulations, or the terms and conditions of state awards may increase risk.

(3) The phase of a state program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a state program, the risk may be higher due to start-up or closeout of program activities and staff.

Management Decision

The management decision must clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the state agency may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee. The state agency may also issue a management decision on findings relating to the financial statements that are required to be reported in accordance with GAGAS. The state agency responsible for issuing the management decision should do so within six months of receipt of the report.

VERSION HISTORY

Release/Revision Date	Version	Summary of Revisions
January 1, 2020	1.0	Publication Date of TxGMS.
December 17, 2021	1.1	Non-substantive modifications (e.g. format adjustments, inclusion of hyperlinks, correction of typographical errors) throughout the TxGMS. Substantive revisions to the following sections: Audits, Appendices 2, 6, and 9.

APPENDIX 1

ACRONYMS AND ABBREVIATIONS

CAFR	Comprehensive Annual Financial Report
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
DUNS	Data Universal Numbering System
ESBD	Electronic State Business Daily
F&A	Facilities and Administration
FAPIIS	Federal Awardee Performance and Integrity Information System
FMX	Fiscal Management Division Website
GAA	General Appropriations Act (state)
GAAP	Generally Accepted Accounting Principles
GAGAS	Generally Accepted Government Auditing Standards
GASB	Governmental Accounting Standards Board
IHE	Institutions of Higher Education
LBB	Legislative Budget Board
OMB	Office of Management and Budget (federal)
R&D	Research and Development
RFA	Request for Applications
SAM	System for Award Management (federal)
SAO	State Auditor's Office
SEFA	Schedule of Expenditures Federal Awards
SPA	State Property Accounting
SPD	Statewide Procurement Division
SPTR	State Pass-Through Reconciliation
SWCAP	Statewide Cost Allocation Plan
TAC	Texas Administrative Code
TxGMS	Texas Grant Management Standards
UGMS	Uniform Grant Management Standards
USAS	Uniform Statewide Accounting System
U.S.C.	United States Code

APPENDIX 2

GLOSSARY

This Glossary provides definitions for terminology commonly used in state grant programs and the Chapter 783 Supplement for State Grant Programs. Other definitions may be found in state statutes, rules, or fiscal policies that apply more specifically to particular programs or activities. Because certain words found in state grant programs may have meanings that are the same, similar, or different to those found in federal grant programs, care should be taken to utilize the definition that is appropriate to the transaction. For definitions associated with terms found in federal grant programs, grant program managers must refer to 2 CFR Part 200 and any Federal agency issued guidance. This Glossary does not provide guidance for terms found in federal grant programs.

Acquisition Cost

Acquisition cost means the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non-state entity's regular accounting practices.

Advance Payment

Advance payment means a payment that a state awarding agency or pass-through entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the local government disburses the funds for program purposes.

Allocation

Allocation means the process of assigning a cost, or a group of costs, to one or more cost objective(s), in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

Application

The document(s) submitted in response to a Request for Applications or other notice of funding opportunity for financial assistance.

Appropriation

Legislative authorization to expend public funds for a specific purpose.

Assignment

Transfer of contractual rights from one party to another party.

Auditee

Auditee means any non-state entity that expends state awards that must be audited under TxGMS.

Auditor

Auditor means an auditor who is a public accountant or a federal, state, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of nonprofit organizations.

Biennium

For the State of Texas, a period of 24 consecutive months beginning on September 1 of each odd-numbered year. Example: September 1, 2017 through August 31, 2019.

Budget

The financial plan for the project or program that the awarding agency or pass-through entity approves during the award process or in subsequent amendments to the award. It may include the State and non-State share or only the State share, as determined by the state awarding agency or pass-through entity.

Capital Asset

A possession of the State that has an estimated useful life of more than one year. Capital assets may or may not be capitalized for financial reporting purposes.

Capital Expenditure

Capital expenditures means expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.

Catalog of Federal Domestic Assistance (CFDA)

A compilation of federal programs, projects, services and activities providing assistance or benefits to the American public. It contains financial and nonfinancial assistance programs administered by various federal government agencies. The CFDA is available online under the Assistance Listings at beta.sam.gov (formally CFDA.gov).

Central Service Cost Allocation Plan

Central service cost allocation plan means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a state, local government, or Indian tribe on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

Cluster of Programs

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development, student financial aid, and other clusters.

Code of Federal Regulations (CFR)

A codification of the federal rules that have been previously published in the Federal Register. The CFR is divided into 50 titles that cover broad areas subject to federal regulation.

Comprehensive Annual Financial Report (CAFR)

A statewide financial report that encompasses all funds and component units of the State of Texas, prepared in conformance with Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards (GASB) requirements.

Computing Devices

Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting and receiving, or storing electronic information. See also Supplies and Information Technology Systems.

Contract

A contract refers to the legal instrument used to enter into a procurement relationship with a contractor (*e.g.*, private sector vendor, public sector entity) to acquire goods and services that are needed to carry out the project or program under a state grant.

Contractor

Contractor means an entity that receives a contract.

Controlled Asset

An agency asset the State has determined as high loss risk to be secured and tracked because of the nature of the possession. The term does not include a capitalized asset, real property, an improvement to real property, or infrastructure. If the controlled asset is required to be reported to the SPA system, additional information may be found in the SPA Process User's Guide located on the Comptroller's FMX website.

Corrective Action

Corrective action means action taken by the auditee that:

(a) Corrects identified deficiencies;

(b) Produces recommended improvements; or

(c) Demonstrates that audit findings are either invalid or do not warrant auditee action.

Cost Allocation Plan

Cost allocation plan means central service cost allocation plan or public assistance cost allocation plan.

Cost Objective

Cost objective means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the non-state entity, a particular service or project, a state award, or an indirect cost activity. See also Final Cost Objective and Intermediate Cost Objective.

Cost Sharing or Matching

Cost sharing or matching means the portion of project costs not paid by state funds (unless otherwise authorized by state statute).

Data Universal Numbering System (DUNS)

A Data Universal Numbering System **(**DUNS) number is a unique nine-digit identification number provided by Dun & Bradstreet (D&B) and serves as the universal identifier for federal grants and cooperative agreements.

Disallowed costs

Disallowed costs mean those charges to a state award that the state awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable statutes, regulations, or the terms and conditions of the state award.

Electronic State Business Daily (ESBD)

An online directory, administered by SPD, that publishes solicitations for the purpose of informing vendors of procurement opportunities and provides public notice of contract awards.

Equipment

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-state entity for financial statement purposes, or $5,000. See also Capital Assets, Computing Devices, General Purpose Equipment, Information Technology Systems, Special Purpose Equipment, and Supplies.

Expenditures

Expenditures means charges made by a non-state entity to a project or program for which a state award was received.

(a) The charges may be reported on a cash or accrual basis, as long as the methodology is disclosed and is consistently applied.

(b) For reports prepared on a cash basis, expenditures are the sum of:

(1) Cash disbursements for direct charges for property and services;

(2) The amount of indirect expense charged;

(3) The value of third-party in-kind contributions applied; and

(4) The amount of cash advance payments and payments made to sub-grantees.

(c) For reports prepared on an accrual basis, expenditures are the sum of:

(1) Cash disbursements for direct charges for property and services;

(2) The amount of indirect expense incurred;

(3) The value of third-party in-kind contributions applied; and

(4) The net increase or decrease in the amounts owed by the non-state entity for:

(i) Goods and other property received;

(ii) Services performed by employees, contractors, sub-grantees, and other payees; and

(iii) Programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.

Final Cost Objective

Final cost objective means a cost objective that has allocated to it both direct and indirect costs and, in the non-state entity's accumulation system, is one of the final accumulation points, such as a particular award, internal project, or other direct activity of a non-state entity. See also Cost Objective and Intermediate Cost Objective.

Fiscal Year

For the State of Texas, a period of 12 consecutive months beginning September 1 of each year and ending August 31 of the next year.

FMX

The Comptroller's Fiscal Management Division website (FMX) that assists state agencies and institutions of higher education to efficiently and effectively manage their appropriations, financial reporting, purchase and travel expenditures, payrolls and personnel.

General Purpose Equipment

General purpose equipment means equipment that is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles. See also Equipment and Special Purpose Equipment.

Generally Accepted Accounting Principles (GAAP)

Conventions, rules and procedures that serve as the norm for the fair presentation of financial statements.

Generally Accepted Government Auditing Standards (GAGAS)

The Generally Accepted Government Auditing Standards (GAGAS), also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Governmental Accounting Standards Board (GASB)

The Governmental Accounting Standards Board (GASB) is a component of the Financial Accounting Foundation (FAF) — a private sector, nonprofit organization. GASB is not a governmental entity. GASB provides authoritative guidance on accounting and financial reporting for state and local governments. GASB establishes generally accepted accounting principles (GAAP) for state and local governments, but has no enforcement authority.

Grant Agreement

A grant agreement is a legal instrument of financial assistance between a state awarding agency or pass-through entity and a non-state entity that is used to enter into a relationship the principal purpose of which is to transfer anything of value from the state awarding agency or pass-through entity to the non-state entity to carry out a public purpose authorized by a state law.

Grantee

Grantee means a non-state entity that receives a state award directly from a state awarding agency to carry out an activity under a state program. The term grantee does not include sub-grantees. See also Non-state Entity.

Grantor

For state grant programs, the entity providing financial assistance in the form of an award. Also referred to as the state awarding agency.

Improper Payment

(a) Improper payment means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) Improper payment includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Indirect Costs

Indirect (facilities and administrative) costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs. Indirect cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

Indirect Cost Rate Proposal

Indirect cost rate proposal means the documentation prepared by a non-state entity to substantiate its request for the establishment of an indirect cost rate.

Information Technology Systems

Information technology systems means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also Computing Devices and Equipment.

Intangible Property

Intangible property means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

Interagency Contract

Written understanding between two or more agencies as authorized by Chapter 771 of the Texas Government Code.

Interlocal Contract

Written understanding between local government entities, a local government entity and a federally recognized Indian tribe, or a local government entity and a state agency of Texas or another state as authorized by Chapter 791 of the Texas Government Code. For purposes of Chapter 791 of the Texas Government, a federally recognized Indian tribe is listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1, whose reservation is located within the boundaries of the State of Texas.

Intermediate Cost Objective

Intermediate cost objective means a cost objective that is used to accumulate indirect costs or service center costs that are subsequently allocated to one or more indirect cost pools or final cost objectives. See also Cost Objective and Final Cost Objective.

Internal Controls

Internal controls mean a process, implemented by a non-state entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(a) Effectiveness and efficiency of operations;

(b) Reliability of reporting for internal and external use; and

(c) Compliance with applicable laws and regulations.

Internal Control Over Compliance Requirements for State Awards

Internal control over compliance requirements for state awards means a process implemented by a non-state entity designed to provide reasonable assurance regarding the achievement of the following objectives for state awards:

(a) Transactions are properly recorded and accounted for, in order to:

(1) Permit the preparation of reliable financial statements and state reports;

(2) Maintain accountability over assets; and

(3) Demonstrate compliance with statutes, regulations, and the terms and conditions of the state award;

(b) Transactions are executed in compliance with:

(1) Statutes, regulations, and the terms and conditions of the state award that could have a direct and material effect on a state program; and

(2) Any other statutes and regulations that are identified in the compliance supplement; and

(c) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Legislative Budget Board (LBB)

The Legislative Budget Board (LBB) is the permanent joint committee of the Texas Legislature that develops budget and policy recommendations for legislative appropriations for all agencies of state government. The LBB completes fiscal analyses for proposed legislation and conducts evaluations and reviews for the purpose of identifying and recommending changes that improve the efficiency and performance of state and local operations and finances.

Local Government

Local government means a municipality, county, or other political subdivision of the state, as those terms are used in Government Code, Chapter 783. It does not include a school district or other special-purpose district.

Major Program

Major program means a state program determined by the auditor to be a major program in accordance with TxGMS or a program identified as a major program by a State awarding agency or pass-through entity in accordance with TxGMS.

Management Decision

Management decision means the evaluation by the state awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary.

Non-state Entity

Non-state entity means a federal government, local government, Indian Tribe, institution of higher education (IHE), nonprofit organization, or for-profit entity (if permitted by state law and the state award) that carries out a state award as a grantee or sub-grantee.

Nonprofit Organization

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

(a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(b) Is not organized primarily for profit; and

(c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations

When used in connection with a non-state entity's utilization of funds under a state award, obligations mean orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-state entity during the same or a future period.

Pass-through entity

Pass-through entity means a non-state entity that provides a subaward to a sub-grantee to carry out part of a state program.

Performance Goal

Performance goal means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate. In some instances (*e.g.*, discretionary research awards), this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with agency policy).

Period of Performance

Period of performance means the time during which the non-state entity may incur new obligations to carry out the work authorized under the state award.

Personal Property

Personal property means property other than real property. It may be tangible, having physical existence, or intangible.

Property
Property means real property or personal property.

Project Cost
Project cost means total allowable costs incurred under a state award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

Questioned Costs
Questioned cost means a cost that is questioned by the auditor because of an audit finding:

(a) Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a state award, including for funds used to match state funds;

(b) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(c) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Real Property
Real property means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

Request for Applications (RFA)
A written announcement requesting the submission of applications for available grant funding.

Research and Development
R&D means all research activities, both basic and applied, and all development activities that are performed by non-state entities. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

"Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Schedule of Expenditures of Federal Awards (SEFA)
The Schedule of Expenditures of Federal Awards (SEFA) is used to report the federal financial assistance and federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. Each agency that expends Federal awards is required to submit the SEFA to the Comptroller either by hard copy or through the SEFA web application.

Statewide Cost Allocation Plan (SWCAP)
The Statewide Cost Allocation Plan (SWCAP), prepared by the Governor's Office each fiscal year, identifies the costs incurred for the provision of central administrative and support activities (central services such as accounting and payroll) and allocates those costs to the agencies receiving the centralized services.

Single Audit
The Single Audit Act of 1984, with amendment in 1996, provide audit requirements for entities that receive federal financial assistance above a designated monetary threshold. The annual audit reduces the audit burden for non-Federal entities in that one audit is conducted in lieu of multiple audits of individual programs.

Special Purpose Equipment
Special purpose equipment means equipment that is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers. See also Equipment and General Purpose Equipment.

State
The State of Texas.

State Award
State award has the meaning, depending on the context, in either paragraph (1) or (2) of this section:

(1) The state financial assistance that a non-state entity receives directly from a state awarding agency or indirectly from a pass-through entity.

(2) The grant agreement.

State Awarding Agency
State awarding agency means the state agency that provides a state award directly to a non-state entity.

State Share
State share means the portion of the total project costs that are paid by state funds.

State Pass-Through Reporting (SPTR)
State Pass-Through Reporting (SPTR) is the web application used to submit the State Grant Pass-Through Schedule and report state grant money passed between agencies. SPTR is available on the Comptroller's website.

Subaward

Subaward means an award provided by a pass-through entity to a sub-grantee for the sub-grantee to carry out part of a state award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a state program.

Sub-grantee

Sub-grantee means a non-state entity that receives a subaward from a pass-through entity to carry out part of a state program; but does not include an individual that is a beneficiary of such program. A sub-grantee may also be a grantee of other state awards directly from a state awarding agency. A sub-grantee may also be referred to as a subrecipient.

Supplies

Supplies means all tangible personal property other than those described in Equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-state entity for financial statement purposes or $5,000, regardless of the length of its useful life. See also Computing Devices and Equipment.

Texas Acquisition Threshold

The Texas Acquisition Threshold is same dollar amount as the federal Simplified Acquisition Threshold including any adjustments to the federal Simplified Acquisition Threshold that may occur after the publication date of TxGMS. The dollar amount associated with federal Simplified Acquisition Threshold is determined in accordance with 2 CFR § 200.88. As of the publication of TxGMS, the federal Simplified Acquisition Threshold is $250,000.

Termination

Termination means the ending of a state award, in whole or in part at any time prior to the planned end of period of performance.

Third-Party In-Kind Contributions

Third-party in-kind contributions means the value of non-cash contributions (*i.e.* property or services) that

(a) benefit a state assisted project or program; and

(b) are contributed by non-state third parties, without charge, to a non-state entity under a state award.

Unliquidated Obligations

Unliquidated obligations mean, for financial reports prepared on a cash basis, obligations incurred by the non-state entity that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are obligations incurred by the non-state entity for which an expenditure has not been recorded.

Unobligated Balance

Unobligated balance means the amount of funds under a state award that the non-state entity has not obligated. The amount is computed by subtracting the cumulative amount of the non-state entity's unliquidated obligations and expenditures of funds under the state award from the cumulative amount of the funds that the state awarding agency or pass-through entity authorized the non-state entity to obligate.

Voluntary Committed Cost Sharing

Voluntary committed cost sharing means cost sharing specifically pledged on a voluntary basis in the proposal's budget or the state award on the part of the non-state entity and that becomes a binding requirement of state award.

APPENDIX 3
ADDITIONAL RESOURCES

STATE RESOURCES

Comptroller's Fiscal Management Website (FMX): https://fmx.cpa.texas.gov/fmx/

Electronic State Business Daily: http://www.txsmartbuy.com/esbd

General Appropriations Act: http://www.lbb.state.tx.us/budget.aspx

LBB Contracts Database: http://www.lbb.state.tx.us/Contract_Reporting.aspx

State of Texas Procurement and Contract Management Guide:
https://comptroller.texas.gov/purchasing/publications/procurement-contract.php

Texas Administrative Code: https://www.sos.texas.gov/texreg/index.shtml

Texas.gov eGrants: https://txapps.texas.gov/tolapp/egrants/search.htm

TxGMS: https://comptroller.texas.gov/purchasing/grant-management/

FEDERAL RESOURCES

Catalog of Federal Domestic Assistance: https://beta.sam.gov/search?index=cfda

Code of Federal Regulations: https://www.govinfo.gov/app/collection/cfr/2018/

Federal Awardee Performance and Integrity Information System: https://www.fapiis.gov/fapiis/#/home

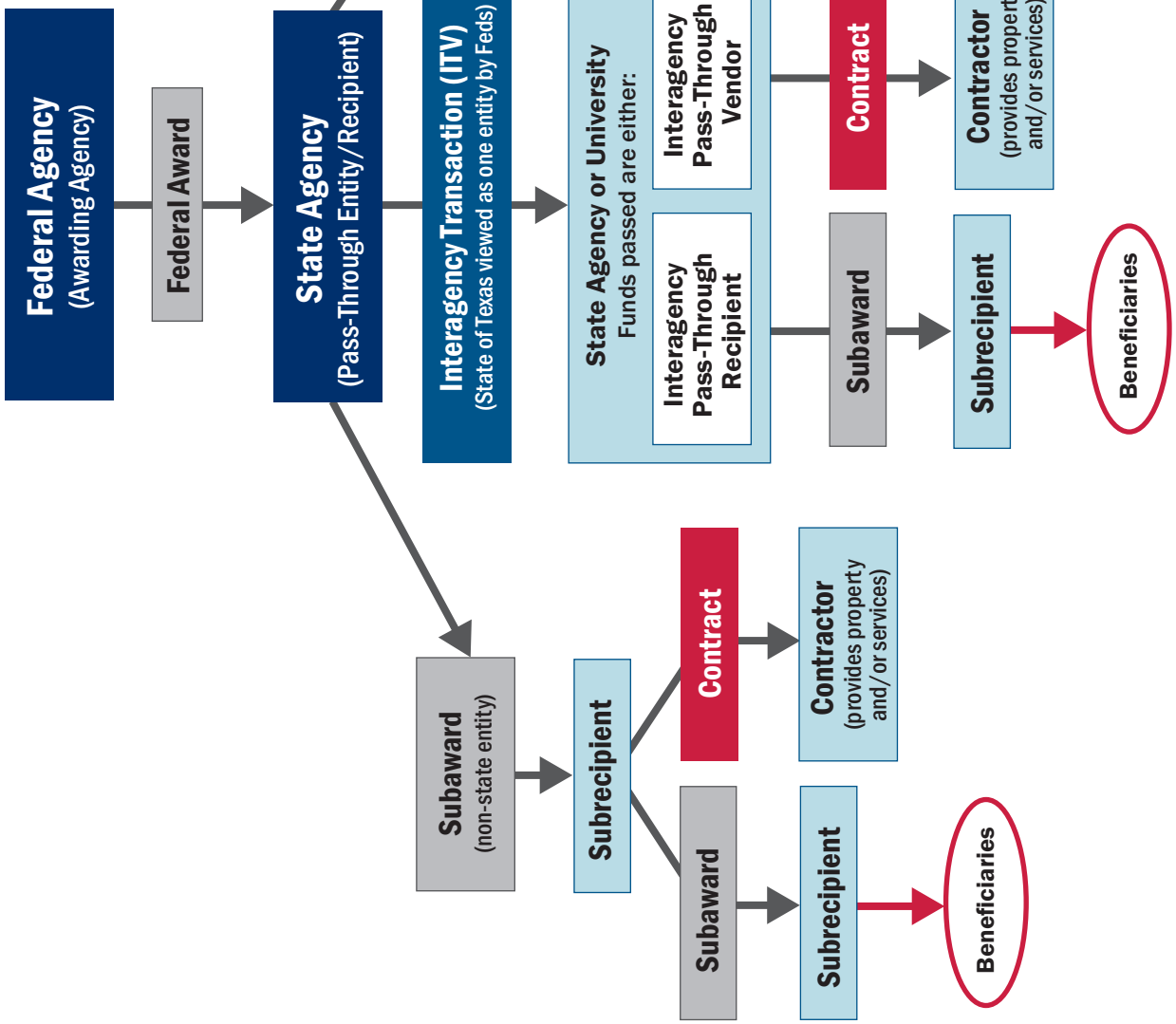
System for Award Management: https://www.sam.gov/SAM/

Uniform Guidance: https://www.govinfo.gov/app/collection/cfr/2019/

Uniform Guidance Training Materials: https://cfo.gov//grants/

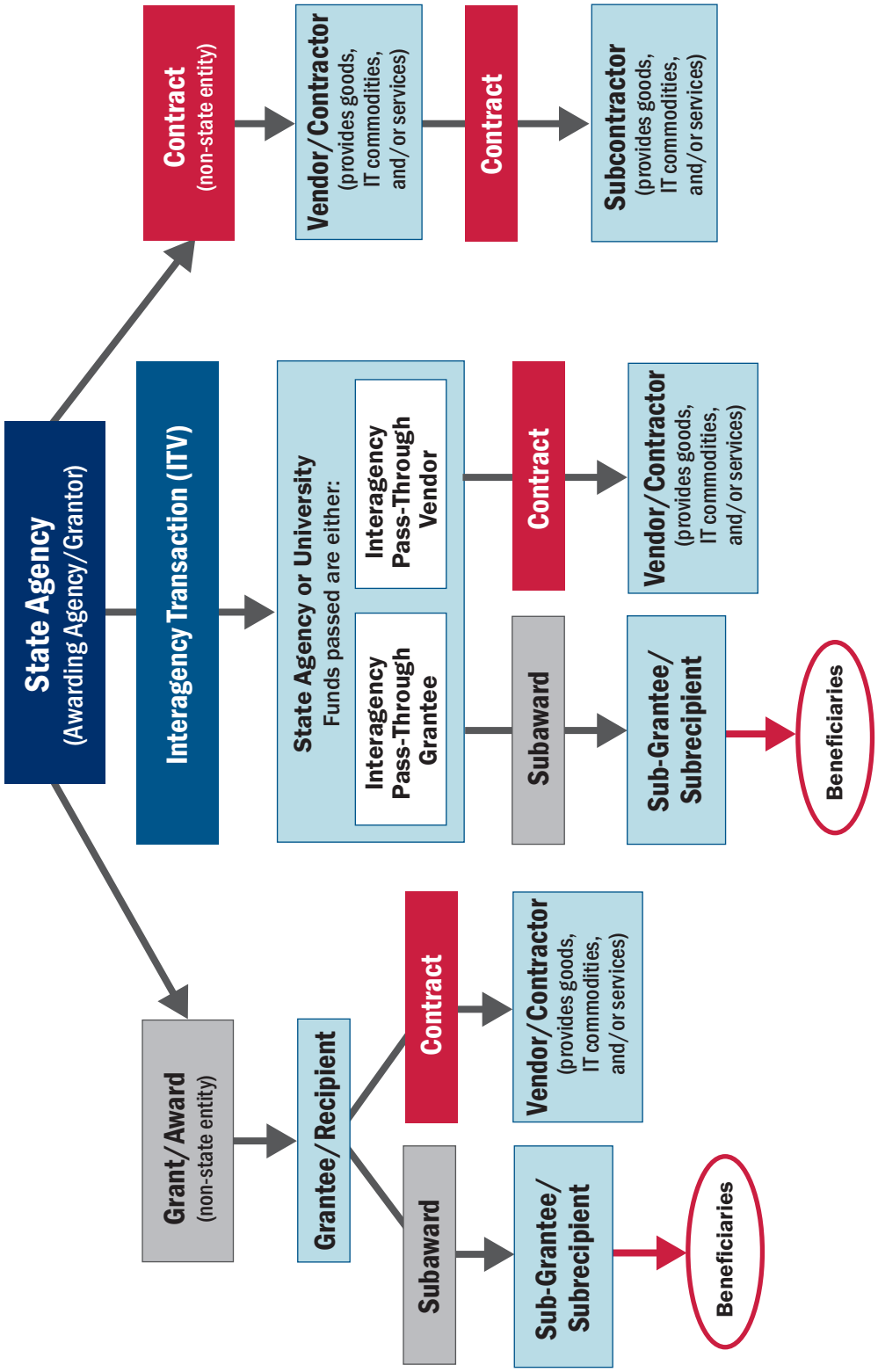
APPENDIX 4

TYPES OF RELATIONSHIPS IN FEDERAL GRANT AWARDS



APPENDIX 5

TYPES OF RELATIONSHIPS IN STATE GRANT AWARDS



APPENDIX 6

UNIFORM ASSURANCES BY LOCAL GOVERNMENTS

In accordance with Section 783.005 of the Texas Government Code, this document identifies the Uniform Assurances that a state agency must include in its grant agreements and procurement contracts with local governments.

The wording of the Uniform Assurance must substantially conform to the Standard Text. (Alternate versions of the Standard Text for certain Assurances are provided.) It is expected that the following terms will be revised by the state agency as appropriate for conformity with the applicable transaction documents: Agency, Respondent, Response, and Solicitation.

General guidance is provided along with examples of supplemental text that routinely accompany the required clause. Any additional text included by the state agency must not conflict with or weaken a Uniform Assurance. It is recommended that grant program managers seek assistance from agency legal counsel prior to modifying the Standard Text as slight variations may result in the state agency's non-compliance with applicable statutes.

Assurance	Standard Text	Guidance
Byrd Anti-Lobbying Amendment	Respondent certifies that no federal appropriated funds have been paid or will be paid to any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on its behalf to obtain, extend, or modify this contract or grant. If non-federal funds are used by Respondent to conduct such lobbying activities, Respondent shall promptly file the prescribed disclosure form. In accordance with 31 U.S.C. § 1352(b)(5), Respondent acknowledges and agrees that it is responsible for ensuring that each subrecipient and subcontractor certifies its compliance with the expenditure prohibition and the declaration requirement. Or *Other text required by the Federal awarding agency.*	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts exceeding $100,000 that are financed from federal funds. **NOTE:** Unless otherwise directed by the Federal awarding agency, the OMB prescribed SF-LLL is the standard disclosure reporting form for lobbying paid for with non-Federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (1) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)– Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. **Legal Authority:** 2 CFR Part 200 Appendix II.

Assurance	Standard Text	Guidance
Child Support Obligation	Respondent represents and warrants that it will include the following clause in the award documents for every subaward and subcontract and will require subrecipients and contractors to certify accordingly: "Under Section 231.006 of the Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application."	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. **NOTE:** Pursuant to Sections 231.006(a) and 231.302(c)(3) of the Texas Family Code, this certification applies to lower tier transactions. Section 231.006(d) of the Texas Family Code mandates the use of statutorily specified text. Section 231.006(j) of the Texas Family Code provides that "A state agency may accept a bid that does not include the required information if the state agency collects the information before the contract, grant, or loan is executed." Section 231.006(a) of the Texas Family Code provides that a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to: (1) receive payments from state funds under a contract to provide property, materials, or services; or (2) receive a state-funded grant or loan. Supplemental text to the required clause may include the following: **FEDERAL PRIVACY ACT NOTICE:** This notice is given pursuant to the Federal Privacy Act. Disclosure of your Social Security Number (SSN) is required under Section 231.006(c) and Section 231.302(c)(2) of the Texas Family Code. The Social Security number will be used to identify persons that may owe child support and will be kept confidential to the fullest extent allowed under Section 231.302(e) of the Texas Family Code. **Legal Authority:** TEX. FAM. CODE §§ 231.006, 231.302.

Assurance	Standard Text	Guidance
Clean Air Act and Federal Water Pollution Control Act	Respondent represents and warrants that it will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Or *Other text specified by the Federal awarding agency.*	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts exceeding $150,000 financed from federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). **Legal Authority:** 2 CFR Part 200 Appendix II.
Compliance With Laws, Rules, and Requirements	Respondent represents and warrants that it will comply, and assure the compliance of all its subrecipients and contractors, with all applicable federal and state laws, rules, regulations, and policies in effect or hereafter established. In addition, Respondent represents and warrants that it will comply with all requirements imposed by the awarding agency concerning special requirements of law, program requirements, and other administrative requirements. In instances where multiple requirements apply to Respondent, the more restrictive requirement applies.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts financed from federal grant funds. **Legal Authority:** 2 CFR §§ 200.300, 200.302, 200.303, 200.318.
Contract Oversight	Respondent represents and warrants that it will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.	**APPLICABILITY:** Clause applies to procurement contracts that are financed from state or federal funds. **Legal Authority:** 2 CFR § 200.318(b); TEX. GOV'T CODE § 783.005.

Assurance	Standard Text	Guidance
Contract Work Hours and Safety Standards Act	Respondent represents and warrants that it will comply with the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Or *Other text specified by the Federal awarding agency.*	**APPLICABILITY:** Clause applies to procurement contracts exceeding $100,000 that are financed from federal funds and involve the employment of mechanics or laborers. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. **Legal Authority:** 2 CFR Part 200 Appendix II.
Cybersecurity Training Program **(Local Government System)**	Respondent represents and warrants its compliance with Section 2054.5191 of the Texas Government Code relating to the cybersecurity training program for local government employees who have access to a local government computer system or database.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. **Legal Authority:** TEX. GOV'T CODE § 2054.5191.
Cybersecurity Training Program **(State Contractor)**	If Respondent has access to any state computer system or database, Respondent shall complete cybersecurity training and verify completion of the training program to the Agency pursuant to and in accordance with Section 2054.5192 of the Government Code.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. **Legal Authority:** TEX. GOV'T CODE § 2054.5192.

Assurance	Standard Text	Guidance
Davis-Bacon Act and the Copeland Act	Respondent represents and warrants that it will comply with the requirements of the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction") and the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874). Or *Other text specified by the Federal awarding agency.*	**APPLICABILITY:** Clause applies to certain construction contracts financed from federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. **Legal Authority:** 2 CFR Part 200 Appendix II.

Assurance	Standard Text	Guidance
Debarment and Suspension	Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. Or *Other text specified by the Federal awarding agency, provided the certification also addresses the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts.*	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (H) Debarment and Suspension (Executive Orders 12549 and 12689) — A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. **Legal Authority:** 2 CFR Part 200 Appendix II; Executive Orders 12549 and 12689; TEX. GOV'T CODE § 783.005.
Debts and Delinquencies	Respondent agrees that any payments due under the contract or grant shall be applied towards any debt or delinquency that is owed to the State of Texas. Or Respondent agrees that any payments due under the contract or grant shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support. Or Respondent acknowledges and agrees that, to the extent Respondent owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Respondent is otherwise owed under the contract or grant may be applied toward any debt Respondent owes the State of Texas until the debt is paid in full. These provisions are effective at any time Respondent owes any such debt or delinquency.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts financed from state funds. **Legal Authority:** TEX. GOV'T CODE §§ 403.055, 2252.903.

Assurance	Standard Text	Guidance
Disaster Recovery Plan	In accordance with 13 Texas Administrative Code § 6.94(a)(9), Respondent shall provide to Agency the descriptions of its business continuity and disaster recovery plans. Or Upon request of Agency, Respondent shall provide the descriptions of its business continuity and disaster recovery plans. Or Upon request of Agency, Respondent shall provide copies of its most recent business continuity and disaster recovery plans.	**APPLICABILITY:** Clause required for any grant agreement or procurement contract with an entity that has custody of vital state records. 13 TAC § 6.94(a)(9) states that each state agency must require all third-party custodians of records to provide the state agency with descriptions of their business continuity and/or disaster recovery plans as regards to the protection of the state agency's vital state records. The term "vital state record" is defined in Section 441.180(13) of the Texas Government Code to mean any state record necessary to: (A) the resumption or continuation of state agency operations in an emergency or disaster; (B) the re-creation of the legal and financial status of the agency; or (C) the protection and fulfillment of obligations to the people of the state. Supplemental text to the required clause may provide additional details regarding the required business continuity and disaster recovery plans (*e.g.*, title and date of plan). **Legal Authority:** TEX. GOV'T CODE § 441.190; 13 TAC § 6.94(a)(9).
Disclosure of Violations of Federal Criminal Law	Respondent represents and warrants its compliance with 2 CFR § 200.113 which requires the disclosure in writing of violations of federal criminal law involving fraud, bribery, and gratuity and the reporting of certain civil, criminal, or administrative proceedings to SAM. Or *Other text specified by the Federal awarding agency.*	**APPLICABILITY:** Clause applies to grant agreements financed from federal funds. 2 CFR § 200.113 provides as follows: The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in § 200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.) **Legal Authority:** 2 CFR § 200.113.

Assurance	Standard Text	Guidance
Disclosure of Prior State Employment	In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Respondent certifies that it does not employ an individual who has been employed by Agency or another agency at any time during the two years preceding the submission of the Response or, in the alternative, Respondent has disclosed in its Response the following: (i) the nature of the previous employment with Agency or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.	**APPLICABILITY:** Clause applies to procurement contracts for consulting services under Chapter 2254 of the Texas Government Code. The term "consultant" is defined to be a person that provides or proposes to provide a consulting service. The term includes a political subdivision but does not include the federal government, a state agency, or a state governmental entity. TEX. GOV'T CODE § 2254.021. Section 2254.034 of the Texas Government Code states the following: (a) A contract entered into in violation of Sections 2254.029 through 2254.031 is void. (b) A contract entered into with a private consultant who did not comply with Section 2254.033 is void. (c) If a contract is void under this section: (1) the comptroller may not draw a warrant or transmit money to satisfy an obligation under the contract; and (2) a state agency may not make any payment under the contract with state or federal money or money held in or outside the state treasury. (d) This section applies to all consulting services contracts, including renewals, amendments, and extensions of consulting services contracts. **Legal Authority:** TEX. GOV'T CODE § 2254.033.

Assurance	Standard Text	Guidance
Disclosure Protections for Certain Charitable Organizations, Charitable Trusts, and Private Foundations	Respondent represents and warrants that it will comply with Section 2252.906 of the Texas Government Code relating to disclosure protections for certain charitable organizations, charitable trusts, and private foundations.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. Section 2252.906(a) of the Texas Government Code states the following: (a) In this section: (1) "Charitable organization" means an organization that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c) of that code. The term does not include a property owners' or homeowners' association. (2) "Grant-making organization" means an organization that makes grants to charitable organizations but is not a private foundation, private foundation trust, or split interest trust. (3) "Private foundation" has the meaning assigned by Section 509(a), Internal Revenue Code of 1986. (4) "Split interest trust" means an irrevocable trust in which the income is first dispersed to the beneficiaries of the trust for a specified period and the remainder of the trust is donated to a designated charity. **Legal Authority:** TEX. GOV'T CODE § 2252.906.
Discrimination Prohibited	In accordance with Section 2105.004 of the Texas Government Code, Respondent represents and warrants that it will not use block grant funds in a manner that discriminates on the basis of race, color, national origin, sex, or religion.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts financed from block grants. **Legal Authority:** TEX. GOV'T CODE § 2105.004.
Dispute Resolution	The dispute resolution process provided in Chapter 2009 of the Texas Government Code is available to the parties to resolve any dispute arising under the agreement.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. **Legal Authority:** TEX. GOV'T CODE §§ 791.015, 2009.002.

Assurance	Standard Text	Guidance
Equal Employment Opportunity	The Respondent hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause: During the performance of this contract, the Respondent agrees as follows: (1) The Respondent will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Respondent will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Respondent agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. (2) The Respondent will, in all solicitations or advertisements for employees placed by or on behalf of the Respondent, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.	**APPLICABILITY:** Clause applies to certain construction contracts financed from federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." **Legal Authority:** 2 CFR Part 200 Appendix II.

Assurance	Standard Text	Guidance
Equal Employment Opportunity *(continued)*	(3) The Respondent will not discharge or any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Respondent's legal duty to furnish information. (4) The Respondent will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Respondent's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (5) The Respondent will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor. (6) The Respondent will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.	

Assurance	Standard Text	Guidance
Equal Employment Opportunity *(continued)*	(7) In the event of the Respondent's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Respondent may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law. (8) The Respondent will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Respondent will take such action with respect to any subcontract or purchase order as the administering agency may direct asa means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. The Respondent further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the Respondent so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.	

Assurance	Standard Text	Guidance
Equal Employment Opportunity *(continued)*	(9) The Respondent agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The Respondent further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Respondent agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Respondent under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings. Or *Other text specified by the Federal awarding agency.*	
Excluded Parties	Respondent certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, *"Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"*, published by the United States Department of the Treasury, Office of Foreign Assets Control.	**APPLICABILITY:** Clause applies as long as Executive Order No. 13224 is in effect. Executive Order 13224 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), was issued by President George W. Bush on September 23, 2001, as a response to the attacks on September 11, 2001. **Legal Authority:** Executive Order No. 13224.

Assurance	Standard Text	Guidance
Executive Head of a State Agency Affirmation	Under Section 669.003 of the Texas Government Code, Respondent certifies that it does not employ, or has disclosed its employment of, any former executive head of the Agency. Respondent must provide the following information in the Response. Name of Former Executive: _____ Name of State Agency: _____ Date of Separation from State agency: _____ Position with Respondent: _____ Date of Employment with Respondent: _____ Or In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Respondent certifies that it is not (1) the executive head of the Agency, (2) a person who at any time during the four years before the date of the contract or grant was the executive head of the Agency, or (3) a person who employs a current or former executive head of the Agency. Or Under Section 669.003 of the Texas Government Code, relating to contracting with an executive head of a state agency, Respondent represents that no person who served as an executive of Agency, in the past four (4) years, was involved with or has any interest in the contract or grant. If Respondent employs or has used the services of a former executive of Agency, then Respondent shall provide the following information in the Response: name of the former executive, the name of the state agency, the date of separation from the state agency, the position held with Respondent, and the date of employment with Respondent.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. Section 669.003 of the Texas Government Code states the following: A state agency may not enter into a contract with the executive head of the state agency, with a person who at any time during the four years before the date of the contract was the executive head of the state agency, or with a person who employs a current or former executive head of a state agency affected by this section, unless the governing body: (1) votes, in an open meeting, to approve the contract; and (2) notifies the Legislative Budget Board, not later than the fifth day before the date of the vote, of the terms of the proposed contract. **Legal Authority:** TEX. GOV'T CODE §§ 669.003.

Assurance	Standard Text	Guidance
Federal Solid Waste Disposal Act	Respondent represents and warrants that it will comply with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Or *Other text specified by the Federal awarding agency.*	**APPLICABILITY:** Clause applies to certain procurement contracts financed from federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (J) See §200.322 Procurement of recovered materials. 2 CFR § 200.322 (Procurement of Recovered Materials) provides the following: A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. **Legal Authority:** 2 CFR Part 200 Appendix II.

Assurance	Standard Text	Guidance
Former Agency Employees	Respondent represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the contract, were former employees of the Agency during the twelve (12) month period immediately prior to the date of execution of the contract. Or In accordance with Section 2252.901 of the Texas Government Code, Respondent represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the contract, were former employees of the Agency during the twelve (12) month period immediately prior to the date of execution of the contract.	**APPLICABILITY:** Clause applies to procurement contracts that are consulting services contracts under Chapter 2254 of the Texas Government Code, if appropriated money will be used to make payments under the contract. The term "consultant" is defined to be a person that provides or proposes to provide a consulting service. The term includes a political subdivision but does not include the federal government, a state agency, or a state governmental entity. TEX. GOV'T CODE § 2254.021. Section 2252.901(a) of the Texas Government Code states the following: A state agency may not enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with a former or retired employee of the agency before the first anniversary of the last date on which the individual was employed by the agency, if appropriated money will be used to make payments under the contract. This section does not prohibit an agency from entering into a professional services contract with a corporation, firm, or other business entity that employs a former or retired employee of the agency within one year of the employee's leaving the agency, provided that the former or retired employee does not perform services on projects for the corporation, firm, or other business entity that the employee worked on while employed by the agency. **Legal Authority:** TEX. GOV'T CODE §§ 2252.901.

Assurance	Standard Text	Guidance
Funding Limitation	Respondent understands that all obligations of Agency under the contract or grant are subject to the availability of grant funds. The contract or grant is subject to termination or cancellation, either in whole or in part, without penalty to Agency if such funds are not appropriated or become unavailable. Or The contract or grant shall not be construed as creating a debt on behalf of Agency in violation of Article III, Section 49a of the Texas Constitution. Respondent understands that all obligations of Agency under the contract are subject to the availability of grant funds. Or Respondent agrees that nothing in this grant will be interpreted to create an obligation or liability of the Agency in excess of the funds delineated in this grant. Respondent agrees that funding for this grant is subject to the actual receipt by the Agency of grant funds appropriated to the Agency. Respondent agrees that the grant funds, if any, received from the Agency may be limited by the term of each state biennium and by specific appropriation authority to and the spending authority of the Agency for the purpose of this grant. Respondent agrees that notwithstanding any other provision of this grant, if the Agency is not appropriated the funds or if the Agency does not receive the appropriated funds for this grant program, or if the funds appropriated to the Agency for this grant program are required to be reallocated to fund other federal or state programs or purposes, the Agency is not liable to pay the Respondent any remaining balance on this grant.	**APPLICABILITY:** Clause must be included in any grant agreement or procurement contract with a term that crosses the biennium. The Texas Constitution and the General Appropriations Act prohibit an agency from incurring obligations in excess of amounts lawfully appropriated by the Texas Legislature over the course of a biennium. Therefore, any installment purchase, lease, or any other type of purchase which incurs an obligation beyond the current appropriations is strictly prohibited, unless such obligation is expressly conditioned upon continued legislative appropriation. For general information regarding the one exception to the prohibition against incurring excess obligations, refer to the "Termination for Non-Appropriations, Excess Obligations Prohibited" Section of the *State of Texas Procurement and Contract Management Guide*. **Legal Authority:** TEX CONST Art III § 49a; TEX CONST Art VIII § 6; General Appropriations Act, Art IX, § 6.03 (2022-2023 Biennium)
Governing Law and Venue	This agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under this agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute that directly names or otherwise identifies its applicability to the contracting state agency.	**APPLICABILITY:** Clause required for procurement contracts that are financed from state or federal funds. **Legal Authority:** TEX. GOV'T CODE § 783.005.

Assurance	Standard Text	Guidance
Indemnification (General)	RESPONDENT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF RESPONDENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY RESPONDENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. RESPONDENT AND AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. **NOTE:** Depending on the transaction, the parties may also negotiate an additional indemnification clause to specifically address intellectual property, engineering services, or architectural services. Vendor created liability under a contract may pose a financial risk to the State in violation of the prohibition against Excess Obligations. Legal counsel should be sought prior to the agency agreeing to a mutual indemnification or indemnification of another entity as such an obligation may constitute a "debt" in violation of law. *See* Tex. Att'y Gen. Op. No. MW-475 (1982). A statute may expressly authorize the state's indemnification of another entity. *See* TEX. GOV'T CODE § 808.003. Supplemental text to the required clause may include the following: **THIS PARAGRAPH IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE RESPONDENT TO INDEMNIFY OR HOLD HARMLESS THE STATE OR AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF AGENCY OR ITS EMPLOYEES.** **For the avoidance of doubt, Agency shall not indemnify Respondent or any other entity under the contract.** **Legal Authority:** TEX CONST Art VIII § 6; TEX. GOV'T CODE § 2254.0031.
Law Enforcement Agency Grant Restriction	If Respondent is a law enforcement agency regulated by Chapter 1701 of the Texas Occupations Code, Respondent represents and warrants that it will not use appropriated money unless the law enforcement agency is in compliance with all rules adopted by the Texas Commission on Law Enforcement (TCOLE), or TCOLE certifies that it is in the process of achieving compliance with such rules.	**APPLICABILITY:** Clause applies to grant agreements financed from appropriated funds. **Legal Authority:** General Appropriations Act, Art IX, § 4.01 (2022-2023 Biennium).

Assurance	Standard Text	Guidance
Legal Authority	Respondent represents that it possesses legal authority to apply for the grant. A resolution, motion or similar action has been duly adopted or passed as an official act of the Respondent's governing body, authorizing the filing of the Response, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative, or the designee of Respondent to act in connection with the Response and to provide such additional information as may be required.	**APPLICABILITY:** Clause applies to grant agreements that are financed from state or federal funds. **Legal Authority:** TEX. GOV'T CODE § 783.005.
Limitations on Grants to Units of Local Government	Respondent acknowledges and agrees that appropriated funds may not be expended in the form of a grant to, or contract with, a unit of local government unless the terms of the grant or contract require that the funds received under the grant or contract will be expended subject to the limitations and reporting requirements similar to those provided by the following: • Parts 2 and 3 of the Texas General Appropriations Act, Art. IX, except there is no requirement for increased salaries for local government employees; • Sections 556.004, 556.005, and 556.006 of the Texas Government Code; and • Sections 2113.012 and 2113.101 of the Texas Government Code.	**APPLICABILITY:** Clause applies to grant agreements financed from appropriated funds. The term "unit of local government" is defined in General Appropriations Act, Art IX, § 4.04 (2022-2023 Biennium) to be: (1) a council of governments, a region planning commission, or a similar regional planning agency created under Chapter 391 of the Local Government Code; (2) a local workforce development board; or (3) a community center as defined by Health and Safety Code § 534.001(b). **Legal Authority:** General Appropriations Act, Art IX, § 4.04 (2022-2023 Biennium).
Lobbying Expenditure Restriction	Respondent represents and warrants that Agency's payments to Respondent and Respondent's receipt of appropriated or other funds under the contract or grant are not prohibited by Sections 403.1067 or 556.0055 of the Texas Government Code which restrict lobbying expenditures.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. Section 403.1067 of the Texas Government Code provides the following: (a) An organization, program, political subdivision, public institution of higher education, local community organization, or other entity receiving funds or grants from the permanent funds in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066 may not use the funds or grants to pay: (1) lobbying expenses incurred by the recipient; (2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code; (3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or (4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

Assurance	Standard Text	Guidance
Lobbying Expenditure Restriction *(Continued)*	Respondent represents and warrants that Agency's payments to Respondent and Respondent's receipt of appropriated or other funds under the contract or grant are not prohibited by Sections 403.1067 or 556.0055 of the Texas Government Code which restrict lobbying expenditures.	(b) Except as provided by this subsection, the persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the contracts, funds, or grants awarded in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066. A registrant under Chapter 305 is not ineligible under this subsection if the person is required to register under that chapter solely because the person communicates directly with a member of the executive branch to influence administrative action concerning a matter relating to the purchase of products or services by a state agency. (c) Grants or awards made under Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066 may not be conditioned on the enactment of legislation, agency rules, or local ordinances. Section 556.0055 of the Texas Government Code provides the following: (a) A political subdivision or private entity that receives state funds may not use the funds to pay: (1) lobbying expenses incurred by the recipient of the funds; (2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305; (3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or (4) a person or entity that has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies. (b) A political subdivision or private entity that violates Subsection (a) is not eligible to receive additional state funds. **Legal Authority:** TEX. GOV'T CODE §§ 403.1067, 556.0055.

Assurance	Standard Text	Guidance
No Conflicts of Interest (federal)	Respondent represents and warrants its compliance with the Federal awarding agency's conflict of interest policies in accordance 2 CFR § 200.112. Or *Other text specified by the Federal awarding agency.*	**APPLICABILITY:** Clause applies to grant agreements financed from federal funds. 2 CFR § 200.112 provides the following: The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy. **Legal Authority:** 2 CFR § 200.112.
No Conflicts of Interest (state)	Respondent represents and warrants that performance under the contract or grant will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. Further, Respondent represents and warrants that in the administration of the grant, it will comply with all conflict of interest prohibitions and disclosure requirements required by applicable law, rules, and policies, including Chapter 176 of the Texas Local Government Code. If circumstances change during the course of the contract or grant, Respondent shall promptly notify Agency.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. **Legal Authority:** TEX. GOV'T CODE §§ 2252.908, 2254.032; TEX LOCAL GOV'T CODE Chapter 176; Tex. Att'y Gen. Op. No. JC-0484 (2002) (concluding that grants awarded by state agencies are subject to the strict common-law rule prohibiting conflict of interest) see also Tex. Att'y Gen. Op. No. KP-0259 (2019) (determining that Section 2261.252(e) of the Texas Government Code does not abrogate the common-law conflict of interest doctrine for state agency purchase orders of $25,000 or less).
No Waiver of Sovereign Immunity	The Parties expressly agree that no provision of the grant or contract is in any way intended to constitute a waiver by the Agency or the State of Texas of any immunities from suit or from liability that the Agency or the State of Texas may have by operation of law.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. **Legal Authority:** U.S. CONST. amend. XI.
Open Meetings	If the Respondent is a governmental entity, Respondent represents and warrants its compliance with Chapter 551 of the Texas Government Code which requires all regular, special or called meeting of a governmental body to be open to the public, except as otherwise provided by law.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. **Legal Authority:** TEX. GOV'T CODE § 551.002.
Political Polling Prohibition	Respondent represents and warrants that it does not perform political polling and acknowledges that appropriated funds may not be granted to, or expended by, any entity which performs political polling.	**APPLICABILITY:** The prohibition regarding political polling does not apply to a poll conducted by an academic institution as a part of the institution's academic mission that is not conducted for the benefit of a particular candidate or party. General Appropriations Act, Art IX, § 4.03 (2022-2023 Biennium). **Legal Authority:** General Appropriations Act, Art IX, § 4.03 (2022-2023 Biennium).

Assurance	Standard Text	Guidance
Public Camping Ban	Respondent certifies that it has not received a final judicial determination finding it intentionally adopted or enforced a policy that prohibited or discouraged the enforcement of a public camping ban in an action brought by the Attorney General under Local Government Code §364.003. If Respondent is currently being sued under the provisions of Local Government Code §364.003, or is sued under this section at any point during the duration of this grant, Respondent must immediately disclose the lawsuit and its current posture to the Agency.	**Applicability:** Applies to any grant made to a local entity with state funds. However, a local entity that has not violated Section 364.002 may not be denied state funds, even if it is a part of another entity that is ineligible for funding. For example, a police department may be an eligible local entity, even if it is part of a city that is ineligible. See Local Government Code § 364.004(c) and 361.001(1). **Legal Authority:** Local Government Code, Chapter 364
Texas Public Information Act	Information, documentation, and other material in connection with this Solicitation or any resulting contract or grant may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). In accordance with Section 2252.907 of the Texas Government Code, Respondent is required to make any information created or exchanged with the State pursuant to the contract or grant, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State. Or Respondent understands that Agency will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this Solicitation or any resulting contract or grant may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Respondent is required to make any information created or exchanged with the State pursuant to the contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts that are financed from state or federal funds. Supplemental text to the required clause may include the following: Specific formats acceptable to the Agency include Word, Excel, and pdf. Supplemental text to the required clause may include details of the agency's protocol for labeling confidential information and procedures for receipt and handling of public information requests. **Legal Authority:** TEX. GOV'T CODE Chapter 552; TEX. GOV'T CODE § 2252.907.
Reporting Compliance	Respondent represents and warrants that it will submit timely, complete, and accurate reports in accordance with the grant and maintain appropriate backup documentation to support the reports.	**APPLICABILITY:** Clause applies to grant agreements that are financed from state or federal funds. **Legal Authority:** 2 CFR § 200.327-.329; TEX. GOV'T CODE § 783.005.
Records Retention (federal)	Respondent represents and warrants its compliance with the records retention requirements of 2 CFR § 200.333. Agency reserves the right to direct a Respondent to retain documents for a longer period of time or transfer certain records to Agency custody when it is determined the records possess longer term retention value. Respondent must include the substance of this clause in all subawards and subcontracts.	**APPLICABILITY:** Clause applies to grant agreements and procurement contracts financed from federal funds. **Legal Authority:** 2 CFR § 200.333.

Assurance	Standard Text	Guidance
Records Retention (state-grant)	Respondent shall maintain and retain all records relating to the performance of the grant including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records will be maintained and retained by Respondent for a period of four (4) years after the grant expiration date or until all audit, claim, and litigation matters are resolved, whichever is later. Agency reserves the right to direct a Respondent to retain documents for a longer period of time or transfer certain records to Agency custody when it is determined the records possess longer term retention value. Respondent must include the substance of this clause in all subawards and subcontracts.	**APPLICABILITY:** Clause applies to grant agreements financed from state funds. **NOTE:** The records retention time period may be modified as necessary to be consistent with the state agency's approved records retention schedule. **Legal Authority:** TEX. CIV. PRAC. & REM. CODE § 16.051; TEX. GOV'T CODE § 441.185.
Records Retention (state-procurement)	For the time period specified in Section 441.1855 of the Texas Government Code, Respondent shall maintain and retain all records relating to the performance of the contract including supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with applicable State of Texas requirements. Respondent must include the substance of this clause in all subcontracts.	**APPLICABILITY:** Clause applies to procurement contracts financed from state grant funds. Section 441.1855 of the Texas Government Code provides: (a) Notwithstanding Section 441.185 or 441.187, a state agency: (1) shall retain in its records each contract entered into by the state agency and all contract solicitation documents related to the contract; and (2) may destroy the contract and documents only after the seventh anniversary of the date: (A) the contract is completed or expires; or (B) all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or documents are resolved. (b) A contract solicitation document that is an electronic document must be retained under Subsection (a) in the document's electronic form. A state agency may print and retain the document in paper form only if the agency provides for the preservation, examination, and use of the electronic form of the document in accordance with Subsection (a), including any formatting or formulas that are part of the electronic format of the document. (c) In this section: (1) "Contract solicitation document" includes any document, whether in paper form or electronic form, that is used by a state agency to evaluate responses to a competitive solicitation for a contract issued by the agency. (2) "Electronic document" means: (A) information that is created, generated, sent, communicated, received, or stored by electronic means; or (B) the output of a word processing, spreadsheet, presentation, or business productivity application. **Legal Authority:** TEX. GOV'T CODE § 441.1855.

Assurance	Standard Text	Guidance
Remedies for Nonperformance	If Respondent fails to comply with any requirement of the contract, Agency may terminate or cancel all or any part of the contract, may obtain substitute requested items, may withhold acceptance and payments to Respondent, may revoke any prior acceptance, may require Respondent to refund amounts paid prior to revocation of acceptance and may pursue all rights and remedies against Respondent under the contract and any applicable law. Remedies for nonperformance may also include suspension or debarment. No provision of the contract shall constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Agency as an agency of the State of Texas or otherwise available to Agency. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities detailed in the contract or otherwise available to Agency by law will not constitute a waiver of said privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Or *Other contract text that satisfies the requirements of 2 CFR Part 200 Appendix II (A).*	**APPLICABILITY:** Clause applies to procurement contracts exceeding the federal Simplified Acquisition Threshold that are financed from federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. **Legal Authority:** 2 CFR Part 200 Appendix II.
Reporting Suspected Fraud and Unlawful Conduct	Respondent represents and warrants that it will comply with Section 321.022 of the Texas Government Code which requires that suspected fraud and unlawful conduct be reported to the State Auditor's Office.	**APPLICABILITY:** Clause applies to grant agreements that are financed from state or federal funds. Section 321.013(a) of the Texas Government Code provides: The State Auditor shall conduct audits of all departments, including institutions of higher education, as specified in the audit plan. At the direction of the committee, the State Auditor shall conduct an audit or investigation of any entity receiving funds from the state. **Legal Authority:** TEX. GOV'T CODE § 321.022.

Assurance	Standard Text	Guidance
Rights to Inventions Made Under a Contract or Agreement	Respondent represents and warrants that it will comply with the requirements of 37 CFR Part 401 ("Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements") and any implementing regulations issued by the awarding agency, if Federal award meets the definition of "funding agreement" under 37 CFR §401.2(a) and the Respondent wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement." Or *Other text specified by the Federal awarding agency.*	**APPLICABILITY:** Clause applies to certain grant agreements and procurement contracts financed from federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. **Legal Authority:** 2 CFR Part 200 Appendix II.

Assurance	Standard Text	Guidance
State Auditor's Right to Audit	The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. The acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Or Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under any contract or indirectly through a subcontract under the contract. The acceptance of funds by the Respondent or any other entity or person directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Respondent or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Respondent shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.	**APPLICABILITY:** Clause applies to grant agreements or procurement contracts that are financed from state or federal funds. Supplemental text to the required clause may include the following: The contract or grant may be amended unilaterally by Agency to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code. **Legal Authority:** TEX. GOV'T CODE § 2262.154.
Subaward Monitoring	Respondent represents and warrant that it will monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with applicable statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved.	**APPLICABILITY:** Clause applies to grant agreements that are financed from state or federal funds. **Legal Authority:** 2 CFR § 200.331(d); TEX. GOV'T CODE § 783.005.

Assurance	Standard Text	Guidance
Termination and Cancellation Circumstances	Agency reserves the right to terminate the contract at any time, in whole or in part, without cost or penalty, by providing thirty (30) calendar days' advance written notice. Agency reserves the right, in its sole discretion, to terminate the contract in whole or in part for Respondent's material breach, provided that Respondent has been given advance written notice specifying the nonperformance and a thirty (30) calendar day period in which to cure the breach. In the event of contract termination, Respondent must, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. Termination or expiration of the contract shall not affect Agency's right to use previously purchased licensed software through the term of each such license, nor any maintenance or support purchased prior to such termination. In the event of contract termination, the Agency's sole and maximum obligation shall be to pay Respondent for previously authorized services completed in accordance with contract requirements and performed prior to the effective date of termination. Agencyshall have no other liability, including no liability for any costs associated with the termination. Agency reserves the right to pursue reasonable costs, fees, expenses, and other amounts or damages available to the Agency under the contract or under applicable law, including, but not limited to, attorneys' fees and court costs, if termination or cancellation is at the Respondent's request or if the Agency terminates the contract for cause. Or *Other contract text that satisfies the requirements of 2 CFR Part 200 Appendix II (B).*	**APPLICABILITY:** Clause applies to procurement contracts exceeding $10,000 that are financed from federal funds. 2 CFR Part 200 Appendix II (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)-- In addition to other provisions required by the Federal agency or the non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable: (B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. **Legal Authority:** 2 CFR Part 200 Appendix II.

APPENDIX 7

SELECTED ITEMS OF COST SUPPLEMENT CHART

This chart includes a Chapter 783 Supplement for state grant programs. The Chapter 783 Supplement specifies certain financial management conditions prescribed by the Comptroller under Chapter 783 of the Texas Government Code for particular state grant program cost items. To the extent that a requirement designated in the Chapter 783 Supplement is inconsistent with state law, including a state agency's enabling statute, state law prevails.

This chart does not serve as a substitute for legal counsel. It is recommended that grant program managers seek assistance from agency legal counsel if there are questions about the applicability of a state law or policy to a specific transaction. Inquiries from state agencies regarding expenditure matters may be directed to the **Expenditure Assistance Section** within the Comptroller's Fiscal Management Division at expenditure.assistance@cpa.texas.gov or **(512) 475-0966**.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Advertising and Public Relations	2 CFR § 200.421	(a) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like. (b) The only allowable advertising costs are those which are solely for: (1) The recruitment of personnel required by the local government for performance of a state award. See also Recruiting Costs; (2) The procurement of goods and services for the performance of a state award; (3) The disposal of scrap or surplus materials acquired in the performance of an award except when local governments are reimbursed for disposal costs at a predetermined amount; or (4) Program outreach and other specific purposes necessary to meet the requirements of the state award. (c) The term "public relations" includes community relations and means those activities dedicated to maintaining the image of the non-local government or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public. (d) The only allowable public relations costs are: (1) Costs specifically required by the state award; (2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the state award (these costs are considered necessary as part of the outreach effort for the state award); or (3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc. (e) Unallowable advertising and public relations costs include the following: (1) All advertising and public relations costs other than as specified in paragraphs (b) and (d) of this section;

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Advertising and Public Relations (continued)		(2) Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also Conferences), including: (ii) Costs of displays, demonstrations, and exhibits; (iii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and (iv) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings; (3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs; (4) Costs of advertising and public relations designed solely to promote the local government.
Advisory Councils	2 CFR § 200.422	Costs incurred by advisory councils or committees are unallowable unless authorized by state law or executive order. See also General Costs of Government.
Alcoholic Beverages	2 CFR § 200.423	Costs of alcoholic beverages are unallowable unless authorized by state law.
Alumni Activities	2 CFR § 200.424	Costs incurred by IHEs for, or in support of, alumni activities are unallowable.
Audit Services	2 CFR § 200.425	(a) A reasonably proportionate share of the costs of audits required by, and performed in accordance with state law and the audit requirements of TxGMS are allowable. However, the following audit costs are unallowable: (1) Any costs when required audits have not been conducted or have been conducted but not in accordance therewith; and (2) [Reserved] (b) The costs of a financial statement audit of a local government that does not currently have a state award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal. (c) Pass-through entities may charge state awards for the cost of agreed-upon-procedures engagements to monitor subrecipients (in accordance with TxGMS) who are exempted from the audit requirements of TxGMS. This cost is allowable only if the agreed-upon-procedures engagements are: (1) Conducted in accordance with GAGAS attestation standards; (2) Paid for and arranged by the pass-through entity; (3) Limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting; and (4) comply with state law (*e.g.*, Section 2113.102 of the Texas Government Code).

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Bad Debts	2 CFR § 200.426	Bad debts (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable. Related collection costs, and related legal costs, arising from such debts after they have been determined to be uncollectable are also unallowable. See also Collections of Improper Payments.
Bonding Costs	2 CFR § 200.427	(a) Bonding costs arise when the state awarding agency requires assurance against financial loss to itself or others by reason of the act or default of the local government. They arise also in instances where the local government requires similar assurance, including bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds for employees and officials. (b) Costs of bonding required pursuant to the terms and conditions of the state award are allowable. (c) Costs of bonding required by the local government in the general conduct of its operations are allowable as an indirect cost to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.
Collections of Improper Payments	2 CFR § 200.428	The costs incurred by a local government to recover improper payments are allowable as either direct or indirect costs, as appropriate. Amounts collected may be used by the non-local government in accordance with applicable law. To the extent available, the local government must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.
Commencement and Convocation Costs	2 CFR § 200.429	For IHEs, costs incurred for commencements and convocations are unallowable unless they serve a proper public purpose and are authorized by the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Personal Services	2 CFR § 200.430	(a) **General.** Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the state award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in Compensation-Fringe Benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this section, and that the total compensation for individual employees: (1) Is reasonable for the services rendered and conforms to the established written policy of the local government consistently applied to both state and non-state activities; (2) Follows an appointment made in accordance with a local government's laws and/or rules or written policies and meets the requirements of state and federal statute, where applicable; and (3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable. (b) **Reasonableness.** Compensation for employees engaged in work on state awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the local government. In cases where the kinds of employees required for state awards are not found in the other activities of the local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the local government competes for the kind of employees involved. (c) **Professional activities outside the local government.** Unless an arrangement is specifically authorized by a state awarding agency, a local government must follow its written local government-wide policies and practices concerning the permissible extent of professional services that can be provided outside the local government for non-organizational compensation. Where such local government-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the state government may require that the effort of professional staff working on state awards be allocated between: (1) Local government activities, and (2) Non-organizational professional activities. If the state awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the state award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis. (d) **Unallowable costs.** (1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation. (2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. (e) **Special considerations.** Special considerations in determining allowability of compensation will be given to any change in a local government's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of state awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in state policy.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Personal Services ***(continued)***	2 CFR § 200.430	(f) **Incentive compensation.** Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the local government and the employees before the services were rendered, or pursuant to an established plan followed by the local government so consistently as to imply, in effect, an agreement to make such payment. (g) **Nonprofit Organizations.** For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination must be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include director's and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials. (h) **Institutions of Higher Education (IHEs).** (1) Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under state awards. Among such conditions are the following: (i) **Allowable activities.** Charges to state awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences. (ii) **Incidental activities.** Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (i) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the state award budget or receive prior written approval by the state awarding agency. (2) **Salary basis.** Charges for work performed on state awards by faculty members during the academic year are allowable at the IBS rate. Except as noted in paragraph (h)(1)(ii) of this section, in no event will charges to state awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of faculty at an institution. IBS is defined as the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the state awarding agency, charges of a faculty member's salary to a state award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award. (3) **Intra–Institution of Higher Education (IHE) consulting.** Intra–IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the state award or approved in writing by the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Personal Services *(continued)*	2 CFR § 200.430	(4) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra–IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met: (i) The IHE establishes consistent written policies which apply uniformly to all faculty members, not just those working on state awards. (ii) The IHE establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. This may be described in appointment letters or other documentations. (iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See paragraph (h)(2) of this section. (iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the IHE. (v) The total salaries charged to state and Federal awards including extra service pay are subject to the Standards of Documentation as described in paragraph (i) of this section. (5) **Periods outside the academic year.** (i) Except as specified for teaching activity in paragraph (h)(5)(ii) of this section, charges for work performed by faculty members on state awards during periods not included in the base salary period will be at a rate not in excess of the IBS. (ii) Charges for teaching activities performed by faculty members on state awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods. (6) **Part-time faculty**. Charges for work performed on state awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments. (7) **Sabbatical leave costs**. Rules for sabbatical leave are as follow: (i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the IHE. (ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy. (8) **Salary rates for non-faculty members**. Non-faculty full-time professional personnel may also earn "extra service pay" in accordance with the IHE's written policy and consistent with paragraph (h)(1)(i) of this section. (i) Standards for Documentation of Personnel Expenses (1) Charges to state awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Personal Services ***(continued)***	2 CFR § 200.430	(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated; (ii) Be incorporated into the official records of the local government; (iii) Reasonably reflect the total activity for which the employee is compensated by the local government, not exceeding 100 percent of compensated activities (for IHE, this per the IHE's definition of IBS); (iv) Encompass both state and federally assisted and all other activities compensated by the local government on an integrated basis, but may include the use of subsidiary records as defined in the local government's written policy; (v) Comply with the established accounting policies and practices of the local government (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); (vi) [Reserved] (vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one state award; a state award and non-state award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity. (viii) Budget estimates (*i.e.* estimates determined before the services are performed) alone do not qualify as support for charges to state awards, but may be used for interim accounting purposes, provided that: (A) The system for establishing the estimates produces reasonable approximations of the activity actually performed; (B) Significant changes in the corresponding work activity (as defined by the local government's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and (C) The local government's system of internal controls includes processes to review after-the-fact interim charges made to state and Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the state award is accurate, allowable, and properly allocated. (i) (Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities. (ii) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to state awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected. (2) For records which meet the standards required in paragraph (i)(1) of this section, the local government will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section. (3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR Part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Personal Services ***(continued)***	2 CFR § 200.430	(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on state awards must be supported in the same manner as salaries and wages claimed for reimbursement from state awards. (5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to state awards may be used in place of or in addition to the records described in paragraph (1) if approved by the state awarding agency. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed. (i) Substitute systems which use sampling methods must meet acceptable statistical sampling standards including: (A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section; (B) The entire time period involved must be covered by the sample; and (C) The results must be statistically valid and applied to the period being sampled. (ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable. (iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the state awarding agency if it concludes that the amounts to be allocated to state awards will be minimal, or if it concludes that the system proposed by the local government will result in lower costs to state awards than a system which complies with the standards. (6) State awarding agencies are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the state awarding agency, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section. (7) For state awards of similar purpose activity or instances of approved blended funding, a local government may submit performance plans that incorporate funds from multiple state awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved state awarding agencies. In these instances, the local government must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged. (8) For a local government where the records do not meet the standards described in this section, the state government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section. A sample personnel activity report is provided in Appendix 8.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Fringe Benefits	2 CFR § 200.431	(a) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, local government-employee agreement, or an established policy of the local government. (b) **Leave**. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met: (1) They are provided under established written leave policies; (2) The costs are equitably allocated to all related activities, including state awards; and, (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the local government or specified grouping of employees. (i) When a local government uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment. (ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a local government uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded. (c) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in Insurance and Indemnification); pension plan costs (see paragraph (i) of this section); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits must be allocated to state awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such state awards and other activities, and charged as direct or indirect costs in accordance with the local government's accounting practices. (d) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the local government demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees. (e) **Insurance**. See also Insurance and Indemnification, paragraphs (d)(1) and (2). (1) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made must not exceed the present value of the liability.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Fringe Benefits ***(continued)***	2 CFR § 200.431	(2) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the local government is named as beneficiary are unallowable. (3) Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay (**if allowable**), and similar employee benefits (*e.g.,* post-retirement health benefits), are allowable in the year of payment provided that the local government follows a consistent costing policy. (f) **Automobiles**. That portion of automobile costs furnished by the entity that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees. (g) **Pension Plan Costs**. Pension plan costs which are incurred in accordance with the established policies of the local government are allowable, provided that: (1) Such policies meet the test of reasonableness. (2) The methods of cost allocation are not discriminatory. (3) For entities using accrual based accounting, the cost assigned to each fiscal year is determined in accordance with GAAP. (4) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 calendar days after each quarter of the year to which such costs are assignable are unallowable. Local Government may elect to follow the "Cost Accounting Standard for Composition and Measurement of Pension Costs" (48 CFR § 9904.412). (5) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. 1301–1461) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable. (6) Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the local government. (i) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries. (ii) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six-month period (or a later period agreed to by the state awarding agency) are allowable in the year funded. The state awarding agency may agree to an extension of the six-month period if an appropriate adjustment is made to compensate for the timing of the charges to the state government and related state reimbursement and the local government's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the state government for the time value of state reimbursements in excess of contributions to the pension fund. (iii) Amounts funded by the local government in excess of the actuarially determined amount for a fiscal year may be used as the local government's contribution in future periods.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Fringe Benefits ***(continued)***	2 CFR § 200.431	(iv) When a local government converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion is allowable if amortized over a period of years in accordance with GAAP. (v) The state government must receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the local government in the form of a refund, withdrawal, or other credit. (h) **Post-Retirement Health**. Post-retirement health plans (PRHP) refers to costs of health insurance or health services not included in a pension plan covered by paragraph (g) of this section for retirees and their spouses, dependents, and survivors. PRHP costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the local government. (1) For PRHP financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries. (2) PRHP costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six-month period (or a later period agreed to by the state awarding agency) are allowable in the year funded. The state awarding agency may agree to an extension of the six-month period if an appropriate adjustment is made to compensate for the timing of the charges to the state government and related state reimbursements and the local government's contributions to the PRHP fund. Adjustments may be made by cash refund, reduction in current year's PRHP costs, or other equitable procedures to compensate the state government for the time value of state reimbursements in excess of contributions to the PRHP fund. (3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the local government contribution in a future period. (4) When a local government converts to an acceptable actuarial cost method and funds PRHP costs in accordance with this method, the initial unfunded liability attributable to prior years is allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the state awarding agency. (5) To be allowable in the current year, the PRHP costs must be paid either to: (i) An insurer or other benefit provider as current year costs or premiums, or (ii) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries. (6) The state government must receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the local government in the form of a refund, withdrawal, or other credit. (i) **Severance Pay**. (1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by employers to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by state law.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Compensation–Fringe Benefits ***(continued)***	2 CFR § 200.431	(2) Costs of severance payments are divided into two categories as follows: (i) Actual normal turnover severance payments must be allocated to all activities; or, where the non-Federal entity provides for a reserve for normal severances, such method will be acceptable if the charge to current operations is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts charged are allocated to all activities of the non-Federal entity. (ii) Measurement of costs of abnormal or mass severance pay by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Federal Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Prior approval by the Federal awarding agency or cognizant agency for indirect cost, as appropriate, is required. (3) Costs incurred in certain severance pay packages which are in an amount in excess of the normal severance pay paid by the non-Federal entity to an employee upon termination of employment and are paid to the employee contingent upon a change in management control over, or ownership of, the non-Federal entity's assets, are unallowable. (j) **Institutions of higher education (IHEs)**. (1) Fringe benefits in the form of undergraduate and graduate tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established IHE policies, and are distributed to all IHE activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable. (2) Fringe benefits in the form of tuition or remission of tuition for individual employees not employed by IHEs are limited to the tax-free amount allowed per section 127 of the Internal Revenue Code as amended. (3) IHEs may offer employees tuition waivers or tuition reductions, provided that the benefit does not discriminate in favor of highly compensated employees. Employees can exercise these benefits at other institutions according to institutional policy. See Scholarships and Student Aid Costs, for treatment of tuition remission provided to students. (k) **Institutions of higher education (IHEs)**. For IHEs whose costs are paid by **state** or local governments, fringe benefit programs (such as pension costs and FICA) and any other benefits costs specifically incurred on behalf of, and in direct benefit to, the IHE, are allowable costs of such IHEs whether or not these costs are recorded in the accounting records of the IHEs, subject to the following: (1) The costs meet the requirements of Basic Considerations containing unallowable costs; (2) The costs are properly supported by approved cost allocation plans in accordance with applicable state cost accounting principles; and (3) The costs are not otherwise borne directly or indirectly by the state government.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Conferences	2 CFR § 200.432	A conference is a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the local government and is necessary and reasonable for successful performance under the state award. Allowable conference costs paid by the local government as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by state law or the terms and conditions of the state award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable unless prohibited by state law. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the state award. The state awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly. See also *Entertainment Costs*, *Participant Support Costs*, Travel Costs, and Trustees.
Contingency Provisions	2 CFR § 200.433	(a) Contingency is that part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items as approved by the state awarding agency) which is associated with possible events or conditions arising from causes the precise outcome of which is indeterminable at the time of estimate, and that experience shows will likely result, in aggregate, in additional costs for the approved activity or project. Amounts for major project scope changes, unforeseen risks, or extraordinary events may not be included. (b) It is permissible for contingency amounts other than those excluded in paragraph (a) of this section to be explicitly included in budget estimates, to the extent they are necessary to improve the precision of those estimates. Amounts must be estimated using broadly accepted cost estimating methodologies, specified in the budget documentation of the state award, and accepted by the state awarding agency. As such, contingency amounts are to be included in the state award. In order for actual costs incurred to be allowable, they must comply with the Cost Principles and other requirements of TxGMS and be verifiable from the local government's records. (c) Payments made by the state awarding agency to the local government's "contingency reserve" or any similar payment made for events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening, are unallowable, except as noted in Compensation—Fringe Benefits regarding self-insurance, pensions, severance (if allowable), and post-retirement health costs and Insurance and Indemnification. (d) Contingencies are unallowable except with prior approval of the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Contributions and Donations	2 CFR § 200.434	(a) Costs of contributions and donations, including cash, property, and services, from the local government to other entities, are unallowable. (b) The value of services and property donated to the local government may not be charged to the state award either as a direct or indirect cost. The value of donated services and property may be used to meet cost sharing or matching requirements. See Cost Sharing or Matching section of TxGMS. Depreciation on donated assets is permitted in accordance with Depreciation, as long as the donated property is not counted towards cost sharing or matching requirements. (c) Services donated or volunteered to the local government may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services may not be charged to the state award either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of the Cost Sharing or Matching section of TxGMS. (d) To the extent feasible, services donated to the local government will be supported by the same methods used to support the allocability of regular personnel services. (e) **Nonprofit Organizations**. The value of services donated to the nonprofit organization utilized in the performance of a direct cost activity must be considered in the determination of the nonprofit organization's indirect cost rate(s) and, accordingly, must be allocated a proportionate share of applicable indirect costs when the following circumstances exist: (1) The aggregate value of the services is material; (2) The services are supported by a significant amount of the indirect costs incurred by the nonprofit organization; (i) In those instances where there is no basis for determining the fair market value of the services rendered, the nonprofit organization and the state awarding agency must negotiate an appropriate allocation of indirect cost to the services. (ii) Where donated services directly benefit a project supported by the state award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be reimbursed under the state award or used to meet cost sharing or matching requirements. (f) Fair market value of donated services must be computed as described in the Cost Sharing or Matching section of TxGMS. (g) Personal Property and Use of Space. (1) Donated personal property and use of space may be furnished to a local government. The value of the personal property and space may not be charged to the state award either as a direct or indirect cost. (2) The value of the donations may be used to meet cost sharing or matching share requirements under the conditions described in Standards for Financial and Program Management section of TxGMS. The value of the donations must be determined in accordance with Standards for Financial and Program Management section of TxGMS. Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Defense and Prosecution of Criminal and Civil Proceedings, Claims, Appeals and Patent Infringements	2 CFR § 200.435	Unless authorized in advance by the awarding agency, costs incurred in connection with any criminal, civil or administrative proceeding are not allowable.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Depreciation	2 CFR § 200.436	(a) Depreciation is the method for allocating the cost of fixed assets to periods benefitting from asset use. The local government may be compensated for the use of its buildings, capital improvements, equipment, and software projects capitalized in accordance with GAAP, provided that they are used, needed in the local government's activities, and properly allocated to state and Federal awards. Such compensation must be made by computing depreciation. (b) The allocation for depreciation must be made in accordance with Appendices III through IX of the Uniform Guidance. (c) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the local government by a third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both. For the purpose of computing depreciation, the acquisition cost will exclude: (1) The cost of land; (2) Any portion of the cost of buildings and equipment borne by or donated by the state or Federal government, irrespective of where title was originally vested or where it is presently located; (3) Any portion of the cost of buildings and equipment contributed by or for the local government where law or agreement prohibits recovery; and (4) Any asset acquired solely for the performance of a non-state award. (d) When computing depreciation charges, the following must be observed: (1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, historical data, and the renewal and replacement policies followed for the individual items or classes of assets involved. (2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method must be presumed to be the appropriate method. Depreciation methods once used may not be changed unless approved in advance by the state awarding agency. The depreciation methods used to calculate the depreciation amounts for indirect rate purposes must be the same methods used by the local government for its financial statements. (3) The entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life. A building may also be divided into multiple components. Each component item may then be depreciated over its estimated useful life. The building components must be grouped into three general components of a building: building shell (including construction and design costs), building services systems (e.g, elevators, HVAC, plumbing system and heating and air-conditioning system) and fixed equipment (*e.g.*, sterilizers, casework, fume hoods, cold rooms and glassware/washers). In exceptional cases, a state awarding agency may authorize a local government to use more than these three groupings. When a local government elects to depreciate its buildings by its components, the same depreciation methods must be used for indirect purposes and financial statements purposes, as described in paragraphs (d)(1) and (2) of this section. (4) No depreciation may be allowed on any assets that have outlived their depreciable lives.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Depreciation *(continued)*	2 CFR § 200.436	(5) Where the depreciation method is introduced to replace the use allowance method, depreciation must be computed as if the asset had been depreciated over its entire life (i.e. from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The total amount of use allowance and depreciation for an asset (including imputed depreciation applicable to periods prior to the conversion from the use allowance method as well as depreciation after the conversion) may not exceed the total acquisition cost of the asset. (e) Charges for depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, adequate depreciation records showing the amount of depreciation taken each period must also be maintained.
Employee Health and Welfare Costs	2 CFR § 200.437	(a) Costs incurred in accordance with the local government's documented policies for the improvement of working conditions, employer-employee relations, employee health, and employee performance are allowable. (b) Such costs will be equitably apportioned to all activities of the local government. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably sent to employee welfare organizations. (c) Losses resulting from operating food services are allowable only if the local government's objective is to operate such services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only: (1) Where the local government can demonstrate unusual circumstances; and (2) With the approval of the state awarding agency.
Entertainment Costs	2 CFR § 200.438	Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the state award or with prior written approval of the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Equipment and Other Capital Expenditures	2 CFR § 200.439	The following rules of allowability must apply to equipment and other capital expenditures: (1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the state awarding agency. (2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of $5,000 or more have the prior written approval of the state awarding agency. (3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the state awarding agency. See Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also Rental Costs of real property and equipment. (4) When approved as a direct charge pursuant to paragraphs (1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the state awarding agency. (5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the state awarding agency for indirect cost. (6) Cost of equipment disposal. If the local government is instructed by the state awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable. (7) Equipment and other capital expenditures are unallowable as indirect costs. See Depreciation.
Exchange Rates	2 CFR § 200.440	(d) If approved in advance by the state awarding agency, cost increases for fluctuations in exchange rates are allowable costs subject to the availability of funding. The state awarding agency must however ensure that adequate funds are available to cover currency fluctuations. (e) The local government is required to make reviews of local currency gains to determine the need for additional state funding before the expiration date of the state award. Subsequent adjustments for currency increases may be allowable only when the local government provides the state awarding agency with adequate source documentation from a commonly used source in effect at the time the expense was made, and to the extent that sufficient state funds are available.
Fines, Penalties, Damages and Other Settlements	2 CFR § 200.441	Costs resulting from local government violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the state award, or with prior written approval of the state awarding agency. See also Defense and Prosecution of Criminal and Civil Proceedings, Claims, Appeals and Patent Infringements.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Fund Raising and Investment Management Costs	2 CFR § 200.442	(a) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the state program objectives are allowable with prior written approval from the state awarding agency. Proposal costs are covered in Proposal Costs. (b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include state participation allowed by this TxGMS. (c) Costs related to the physical custody and control of monies and securities are allowable. (d) Both allowable and unallowable fund raising and investment activities must be allocated as an appropriate share of indirect costs under the conditions described in the Direct Costs section of TxGMS.
Gains and Losses on Disposition of Depreciable Assets	2 CFR § 200.443	(a) Gains and losses on the sale, retirement, or other disposition of depreciable property must be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) is the difference between the amount realized on the property and the undepreciated basis of the property. (b) Gains and losses from the disposition of depreciable property must not be recognized as a separate credit or charge under the following conditions: (1) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under Depreciation and Equipment and Other Capital Expenditures. (2) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item. (3) A loss results from the failure to maintain permissible insurance, except as otherwise provided in *Insurance and Indemnification*. (4) Compensation for the use of the property was provided through use allowances in lieu of depreciation. (5) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions must be considered on a case-by-case basis. (c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph (a) of this section (*e.g.*, land, must be excluded in computing state award costs). (d) When assets acquired with state funds, in part or wholly, are disposed of, the distribution of the proceeds must be made in accordance with the Property Standards section of TxGMS.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
General Costs of Government	2 CFR § 200.444	(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable except as provided in Travel Costs. Unallowable costs include: (1) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe; (2) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction; (3) Costs of the judicial branch of a government; (4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in Defense and Prosecution of Criminal and Civil Proceedings, Claims, Appeals and Patent Infringements); and (5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation. (b) For Indian tribes and Councils of Governments (COGs) as defined by state law, up to 50 percent of salaries and expenses directly attributable to managing and operating state programs by the chief executive and his or her staff can be included in the indirect cost calculation without documentation.
Goods or Services for Personal Use	2 CFR § 200.445	(a) Costs of goods or services for personal use of the local government's employees are unallowable regardless of whether the cost is reported as taxable income to the employees. (b) Costs of housing (*e.g.*, depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Idle Facilities and Idle Capacity	2 CFR § 200.446	(a) As used in this section the following terms have the meanings set forth in this section: (1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the local government. (2) Idle facilities mean completely unused facilities that are excess to the local government's current needs. (3) Idle capacity means the unused capacity of partially used facilities. It is the difference between: (i) That which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and; (ii) The extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved. (3) Cost of idle facilities or idle capacity means costs such as maintenance, repair, housing, rent, and other related costs (*e.g.*, insurance, interest, and depreciation). These costs could include the costs of idle public safety emergency facilities, telecommunications, or information technology system capacity that is built to withstand major fluctuations in load (*e.g.*, consolidated data centers). (b) The costs of idle facilities are unallowable except to the extent that: (1) They are necessary to meet workload requirements which may fluctuate and are allocated appropriately to all benefiting programs; or (2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities. (c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the state award or was originally reasonable and is not subject to reduction or elimination by use on other state or Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities. (d) The costs of idle facilities are unallowable without prior approval by the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Insurance and Indemnification	2 CFR § 200.447	(a) Costs of insurance required or approved and maintained, pursuant to the state award, are allowable. (b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations: (1) Types and extent and cost of coverage are in accordance with the local government's policy and sound business practice. (2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, state government property are unallowable except to the extent that the state awarding agency has specifically required or approved such costs. (3) Costs allowed for business interruption or other similar insurance must exclude coverage of management fees. (4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation. See Compensation—Fringe Benefits. The cost of such insurance when the local government is identified as the beneficiary is unallowable. (5) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the local government's materials or workmanship are unallowable. (6) Medical liability (malpractice) insurance. Medical liability insurance is an allowable cost of state research programs only to the extent that the state research programs involve human subjects or training of participants in research techniques. Medical liability insurance costs must be treated as a direct cost and must be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance. (c) Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the state award. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable. (d) Contributions to a reserve for certain self-insurance programs including workers' compensation, unemployment compensation, and severance pay (if allowable) are allowable subject to the following provisions: (1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, must not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the local government's settlement rate for those liabilities and its investment rate of return. (2) Earnings or investment income on reserves must be credited to those reserves.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Insurance and Indemnification ***(Continued)***	2 CFR § 200.447	(3) (i) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims: (A) Submitted and adjudicated but not paid; (B) Submitted but not adjudicated; and (C) Incurred but not submitted. (ii) Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal. (4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the local government. If individual departments or agencies of the local government experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation. (5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund or unrestricted account), refunds must be made to the state government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with the state awarding agency claims collection regulations. (e) Insurance refunds must be credited against insurance costs in the year the refund is received. (f) Indemnification includes securing the local government against liabilities to third persons and other losses not compensated by insurance or otherwise. To the extent permitted by state law, state government is obligated to indemnify the local government only to the extent expressly provided for in the state award, except as provided in paragraph (c) of this section.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Intellectual Property	2 CFR § 200.448	(a) Patent costs. (1) The following costs related to securing patents and copyrights are allowable: (i) Costs of preparing disclosures, reports, and other documents required by the state award, and of searching the art to the extent necessary to make such disclosures; (ii) Costs of preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by the state government to be conveyed to the state government; and (iii) General counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee intellectual property agreements. See Professional Services Costs. (2) The following costs related to securing patents and copyrights are unallowable: (i) Costs of preparing disclosures, reports, and other documents, and of searching the art to make disclosures not required by the state award; (ii) Costs in connection with filing and prosecuting any foreign patent application, or any United States patent application, where the state award does not require conveying title or a royalty-free license to the state government. (b) Royalties and other costs for use of patents and copyrights. (1) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the state award are allowable unless: (i) The state government already has a license or the right to free use of the patent or copyright. (ii) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid. (iii) The patent or copyright is considered to be unenforceable. (iv) The patent or copyright is expired. (2) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less-than-arm's-length bargaining, such as: (i) Royalties paid to persons, including corporations, affiliated with the local government. (ii) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a state award would be made. (iii) Royalties paid under an agreement entered into after a state award is made to a local government. (3) In any case involving a patent or copyright formerly owned by the local government, the amount of royalty allowed must not exceed the cost which would have been allowed had the local government retained title thereto.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Interest	2 CFR § 200.449	(a) **General**. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the local government's own funds, however represented, are unallowable. Financing costs (including interest) to acquire, construct, or replace capital assets are allowable, subject to the conditions in this section. (b) (1) An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP. (2) For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP or the state's capitalization policy is allowable. (c) **Conditions for all local governments**. (1) The local government uses the capital assets in support of state awards; (2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the local government from an unrelated (arm's length) third party. (3) The local government obtains the financing via an arm's-length transaction (that is, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate available via such a transaction. (4) The local government limits claims for state reimbursement of interest costs to the least expensive alternative. For example, a capital lease may be determined less costly than purchasing through debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used. (5) The local government expenses or capitalizes allowable interest cost in accordance with GAAP. (6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expensed or capitalized. Earnings subject to being reported to the Internal Revenue Service under arbitrage requirements are excludable. (7) Prior written approval by the state awarding agency is required for any debt arrangement to purchase or construct facilities. The state awarding agency may condition its approval of the debt arrangement on an initial equity contribution by the local government. The following conditions must apply to debt arrangements over $1 million to purchase or construct facilities, unless the local government makes an initial equity contribution to the purchase of 25 percent or more. For this purpose, "initial equity contribution" means the amount or value of contributions made by the local government for the acquisition of facilities prior to occupancy. (i) The local government must reduce claims for reimbursement of interest cost by an amount equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used for state awards. (ii) The local government must impute interest on excess cash flow as follows: (A) Annually, the local government must prepare a cumulative (from the inception of the project) report of monthly cash inflows and outflows, regardless of the funding source. For this purpose, inflows consist of state reimbursement for depreciation, amortization of capitalized construction interest, and annual interest cost. Outflows consist of initial equity contributions, debt principal payments (less the pro-rata share attributable to the cost of land), and interest payments.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Interest *(Continued)*	2 CFR § 200.449	(B) To compute monthly cash inflows and outflows, the local government must divide the annual amounts determined in step (i) by the number of months in the year (usually 12) that the building is in service. (C) For any month in which cumulative cash inflows exceed cumulative outflows, interest must be calculated on the excess inflows for that month and be treated as a reduction to allowable interest cost. The rate of interest to be used must be the three-month Treasury bill closing rate as of the last business day of that month. (8) Interest attributable to a fully depreciated asset is unallowable. (d) **Additional conditions for states, local governments, and Indian tribes**. (1) The requirement to offset interest earned on borrowed funds against current allowable interest cost (paragraph (c)(5), above) also applies to earnings on debt service reserve funds. (2) The local government will negotiate the amount of allowable interest cost related to the acquisition of facilities with asset costs of $1 million or more, as outlined in paragraph (c)(7) of this section. For this purpose, a local government must consider only cash inflows and outflows attributable to that portion of the real property used for state awards.
Lobbying	2 CFR § 200.450	(a) Lobbying is defined by relevant state law. The costs associated with prohibited lobbying activities are unallowable. (b) When a local government seeks reimbursement for indirect costs, total lobbying costs must be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of the Direct Costs section of TxGMS.
Losses on Other Awards or Contracts	2 CFR § 200.451	Any excess of costs over income under any other award or contract of any nature is unallowable. This includes, but is not limited to, the local government's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs. Also, any excess of costs over authorized funding levels transferred from any award or contract to another award or contract is unallowable. All losses are not allowable indirect costs and are required to be included in the appropriate indirect cost rate base for allocation of indirect costs.
Maintenance and Repair Costs	2 CFR § 200.452	Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including state property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as Capital Expenditures. See Equipment and Other Capital Expenditures. These costs are only allowable to the extent not paid through rental or other agreements.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
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Materials and Supplies Costs, Including Costs of Computing Devices	2 CFR § 200.453	(a) Costs incurred for materials, supplies, and fabricated parts necessary to carry out a state award are allowable. (b) Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms must be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs. (c) Materials and supplies used for the performance of a state award may be charged as direct costs. In the specific case of computing devices, charging as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a state award. (d) Where state or federally donated or furnished materials are used in performing the state award, such materials will be used without charge.
Memberships, Subscriptions, and Professional Activity Costs	2 CFR § 200.454	(a) Costs of the local government's membership in business, technical, and professional organizations are allowable. (b) Costs of the local government's subscriptions to business, professional, and technical periodicals are allowable. (c) Costs of membership in any civic or community organization are allowable with prior approval by the state awarding agency. (d) Costs of membership in any country club or social or dining club or organization are unallowable. (e) Costs of membership in organizations whose primary purpose is lobbying are unallowable. See also Lobbying.
Organization Costs	2 CFR § 200.455	Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselor, whether or not employees of the nonprofit organization in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the state awarding agency.
Participant Support Costs	2 CFR § 200.456	Participant support costs means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects. Participant support costs are allowable with the prior approval of the state awarding agency.
Plant and Security Costs	2 CFR § 200.457	Necessary and reasonable expenses incurred for protection and security of facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; protective (non-military) gear, devices, and equipment; contractual security services; and consultants. Capital expenditures for plant security purposes are subject to the requirements specified in Equipment and Other Capital Expenditures.
Pre-award Costs	2 CFR § 200.458	Pre-award costs are those incurred prior to the effective date of the state award directly pursuant to the negotiation and in anticipation of the state award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the state award and only with the written approval of the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Professional Service Costs	2 CFR § 200.459	(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill as defined by Chapter 2254 of the Texas Government Code, and who are not officers or employees of the local government, are allowable, subject to paragraphs (b) and (c) when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the state government. In addition, legal and related services are limited under Defense and Prosecution of Criminal and Civil Proceedings, Claims, Appeals and Patent Infringements. (b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant: (1) The nature and scope of the service rendered in relation to the service required. (2) The necessity of contracting for the service, considering the local government's capability in the particular area. (3) The past pattern of such costs, particularly in the years prior to state awards. (4) The impact of state awards on the local government's business (*i.e.* what new problems have arisen). (5) Whether the proportion of state work to the local government's total business is such as to influence the local government in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under state awards. (6) Whether the service can be performed more economically by direct employment rather than contracting. (7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-state funded activities. (8) Adequacy of the contractual agreement for the service (*e.g.*, description of the service, estimate of time required, rate of compensation, and termination provisions). (c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.
Proposal Costs	2 CFR § 200.460	Proposal costs are the costs of the local government in preparing bids, proposals, or applications on potential state and non-state awards or projects, including the development of data necessary to support the local government's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the local government. No proposal costs of past accounting periods will be allocable to the current period.
Publication and Printing Costs	2 CFR § 200.461	(a) Publication costs for electronic and print media, including distribution, promotion, and general handling are allowable. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the local government. (b) Page charges for professional journal publications are allowable where: (1) The publications report work supported by the state government; and (2) The charges are levied impartially on all items published by the journal, whether or not under a state award. (3) The local government may charge the state award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the state award.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Rearrangement and Reconversion Costs	2 CFR § 200.462	(a) Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations costs incurred specifically for a state award are allowable as a direct cost with the prior approval of the state awarding agency. (b) Costs incurred in the restoration or rehabilitation of the local government's facilities to approximately the same condition existing immediately prior to commencement of state awards, less costs related to normal wear and tear, are allowable.
Recruiting Costs	2 CFR § 200.463	(a) Subject to paragraphs (b) and (c) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to the local government's standard recruitment program. Where the local government uses employment agencies, costs not in excess of standard commercial rates for such services are allowable. (b) Special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel that do not meet the test of reasonableness or do not conform with the established practices of the local government, are unallowable. (c) Where relocation costs incurred incident to recruitment of a new employee have been funded in whole or in part to a state award, and the newly hired employee resigns for reasons within the employee's control within 12 months after hire, the local government will be required to refund or credit the state share of such relocation costs to the state government. See also Relocation Costs of Employees. (d) Short-term, travel visa costs (as opposed to longer-term, immigration visas) are generally allowable expenses that may be proposed as a direct cost. Because short-term visas are issued for a specific period and purpose, they can be clearly identified as directly connected to work performed on a state award. For these costs to be directly charged to a state award, they must: (1) Be critical and necessary for the conduct of the project; (2) Be allowable under the applicable cost principles; (3) Be consistent with the local government's cost accounting practices and local government policy; and (4) Meet the definition of "direct cost" as described in the applicable cost principles.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Relocation Costs of Employees	2 CFR § 200.464	(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitations described in paragraphs (b), (c), and (d) of this section, provided that: (1) The move is for the benefit of the employer. (2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer. (3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses. (b) Allowable relocation costs for current employees are limited to the following: (1) The costs of transportation of the employee, members of his or her immediate family and his household, and personal effects to the new location. (2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to maximum period of 30 calendar days. (3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs, together with those described in (4), are limited to 8 percent of the sales price of the employee's former home. (4) The continuing costs of ownership (for up to six months) of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings and grounds (exclusive of fixing-up expenses), utilities, taxes, and property insurance. (5) Other necessary and reasonable expenses normally incident to relocation, such as the costs of canceling an unexpired lease, transportation of personal property, and purchasing insurance against loss of or damages to personal property. The cost of canceling an unexpired lease is limited to three times the monthly rental. (c) Allowable relocation costs for new employees are limited to those described in paragraphs (b)(1) and (2) of this section. When relocation costs incurred incident to the recruitment of new employees have been charged to a state award and the employee resigns for reasons within the employee's control within 12 months after hire, the local government must refund or credit the state government for its share of the cost. However, the costs of travel to an overseas location must be considered travel costs in accordance with Travel Costs, and not this section for Relocation Costs of Employees, for the purpose of this paragraph if dependents are not permitted at the location for any reason and the costs do not include costs of transporting household goods. (d) The following costs related to relocation are unallowable: (1) Fees and other costs associated with acquiring a new home. (2) A loss on the sale of a former home. (3) Continuing mortgage principal and interest payments on a home being sold. (4) Income taxes paid by an employee related to reimbursed relocation costs.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Rental Costs of Real Property and Equipment	2 CFR § 200.465	(a) Subject to the limitations described in paragraphs (b) through (d) of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available. (b) Rental costs under "sale and lease back" arrangements are allowable only up to the amount that would be allowed had the local government continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance. (c) Rental costs under "less-than-arm's-length" leases are allowable only up to the amount (as explained in paragraph (b) of this section). For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between: (1) Divisions of the local government; (2) The local government under common control through common officers, directors, or members; and (3) The local government and a director, trustee, officer, or key employee of the local government or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, the local government may establish a separate corporation for the sole purpose of owning property and leasing it back to the local government. (4) Family members include one party with any of the following relationships to another party: (i) Spouse, and parents thereof; (ii) Children, and spouses thereof; (iii) Parents, and spouses thereof; (iv) Siblings, and spouses thereof; (v) Grandparents and grandchildren, and spouses thereof; (vi) Domestic partner and parents thereof, including domestic partners of any individual in (2) through (5) of this definition; and (vii) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. (5) Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in paragraph (b) of this section) that would be allowed had the local government purchased the property on the date the lease agreement was executed. The provisions of GAAP must be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in Interest. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the local government purchased the property. (6) The rental of any property owned by any individuals or entities affiliated with the local government, to include commercial or residential real estate, for purposes such as the home office workspace is unallowable.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Scholarships and Student Aid Costs	2 CFR § 200.466	(a) Costs of scholarships, fellowships, and other programs of student aid at IHEs are allowable only when the purpose of the state award is to provide training to selected participants and the charge is approved by the state awarding agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that: (1) The individual is conducting activities necessary to the state award; (2) Tuition remission and other support are provided in accordance with established policy of the IHE and consistently provided in a like manner to students in return for similar activities conducted under state awards as well as other activities; and (3) During the academic period, the student is enrolled in an advanced degree program at an IHE or affiliated institution and the activities of the student in relation to the state award are related to the degree program; (4) The tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work; and (5) It is the IHE's practice to similarly compensate students under state awards as well as other activities. (b) Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages must be subject to the reporting requirements in Compensation—Personal Services, and must be treated as direct or indirect cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis. See also Compensation—Fringe Benefits.
Selling and Marketing Costs	2 CFR § 200.467	Costs of selling and marketing any products or services of the local government (unless allowed under Advertising and Public Relations.) are unallowable, except as direct costs, with prior approval by the state awarding agency when necessary for the performance of the state award.
Specialized Service Facilities	2 CFR § 200.468	(a-1) Specialized Service Facilities means highly complex or specialized facilities operated by the local government, such as computing facilities, wind tunnels, and reactors. (a-2) The costs of services provided by Specialized Service Facilities are allowable, provided the charges for the services meet the conditions of either paragraphs (b) or (c) of this section, and, in addition, take into account any items of income or state financing that qualify as Applicable Credits. (b) The costs of such services, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology that: (1) Does not discriminate between activities under state awards and other activities of the local government, including usage by the local government for internal purposes; and (2) Is designed to recover only the aggregate costs of the services. The costs of each service must consist normally of both its direct costs and its allocable share of all indirect costs. Rates must be adjusted at least biennially, and must take into consideration over/under applied costs of the previous period(s). (c) Where the costs incurred for a service are not material, they may be allocated as indirect costs. (d) Under some extraordinary circumstances, where it is in the best interest of the state government and the local government to establish alternative costing arrangements, such arrangements may be worked out with the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Student Activity Costs	2 CFR § 200.469	Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the state award.
Taxes (including Value Added Tax)	2 CFR § 200.470	(a) For states, local governments and Indian tribes: (1) Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect state programs or changes in tax policies that disproportionately affect state programs. (2) Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the state government are allowable. (3) This provision does not restrict the authority of the state awarding agency to identify taxes where state participation is inappropriate. (b) Nonprofit organizations and IHEs: (1) In general, taxes which the nonprofit organizations and IHEs are required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for: (i) Taxes from which exemptions are available to the nonprofit organizations and IHEs directly or which are available to the nonprofit organizations and IHEs based on an exemption afforded the state government and, in the latter case, when the state awarding agency makes available the necessary exemption certificates, (ii) Special assessments on land which represent capital improvements, and (iii) Federal income taxes. (2) Any refund of taxes, and any payment to the nonprofit organization or IHE of interest thereon, which were allowed as state award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the state government. However, any interest actually paid or credited to a nonprofit organization and IHE incident to a refund of tax, interest, and penalty will be paid or credited to the state government only to the extent that such interest accrued over the period during which the nonprofit organization or IHE has been reimbursed by the state government for the taxes, interest, and penalties. (c) Value Added Tax (VAT) Foreign taxes charged for the purchase of goods or services that a local government is legally required to pay in country is an allowable expense under state awards. Foreign tax refunds or applicable credits under state awards refer to receipts, or reduction of expenditures, which operate to offset or reduce expense items that are allocable to state awards as direct or indirect costs. To the extent that such credits accrued or received by the local government relate to allowable cost, these costs must be credited to the state awarding agency either as costs or cash refunds. If the costs are credited back to the state award, the local government may reduce the state share of costs by the amount of the foreign tax reimbursement, or where state award has not expired, use the foreign government tax refund for approved activities under the state award with prior approval of the state awarding agency.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Termination Costs	2 CFR § 200.471	Termination of a state award generally gives rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the state award not been terminated. Cost principles covering these items are set forth in this section. They are to be used in conjunction with the other provisions of this part in termination situations. (a) The cost of items reasonably usable on the local government's other work must not be allowable unless the local government submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the local government, the state awarding agency should consider the local government's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the local government must be regarded as evidence that such items are reasonably usable on the local government's other work. Any acceptance of common items as allocable to the terminated portion of the state award must be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work. (b) If in a particular case, despite all reasonable efforts by the local government, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this part, except that any such costs continuing after termination due to the negligent or willful failure of the local government to discontinue such costs must be unallowable. (c) Loss of useful value of special tooling, machinery, and equipment is generally allowable if: (1) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the local government; (2) The interest of the state government is protected by transfer of title or by other means deemed appropriate by the state awarding agency (see also *Equipment*, paragraph (d)); and (3) The loss of useful value for any one terminated state award is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the state award bears to the entire terminated state award and other state awards for which the special tooling, machinery, or equipment was acquired. (d) Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated state award less the residual value of such leases, if: (1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the state award and such further period as may be reasonable; and (2) The local government makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the state award, and of reasonable restoration required by the provisions of the lease. (e) Settlement expenses including the following are generally allowable: (1) Accounting, legal, clerical, and similar costs reasonably necessary for: (i) The preparation and presentation to the state awarding agency of settlement claims and supporting data with respect to the terminated portion of the state award, unless the termination is for cause (see the Remedies for Noncompliance section of TxGMS); and (ii) The termination and settlement of subawards.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Termination Costs *(Continued)*	2 CFR § 200.471	(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the state government or acquired or produced for the state award. (f) Claims under subawards, including the allocable portion of claims which are common to the state award and to other work of the local government, are generally allowable. An appropriate share of the local government's indirect costs may be allocated to the amount of settlements with contractors and/or subrecipients, provided that the amount allocated is otherwise consistent with the basic guidelines contained in the Indirect Costs section of TxGMS. The indirect costs so allocated must exclude the same and similar costs claimed directly or indirectly as settlement expenses.
Training and Education Costs	2 CFR § 200.472	The cost of training and education provided for employee development is allowable.
Transportation Costs	2 CFR § 200.473	Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation cost may be charged to the appropriate indirect cost accounts if the local government follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms and conditions of the state award, should be treated as a direct cost.

Selected Cost Items	Federal Grant Program Considerations	State Grant Program Considerations
	Uniform Guidance	Chapter 783 Supplement for State Grant Programs
Travel Costs	2 CFR § 200.474	(a) General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the local government. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used (1) is applied to an entire trip and not to selected days of the trip, (2) results in charges consistent with those normally allowed in like circumstances in the local government's non-state-funded activities and is in accordance with local government's written travel reimbursement policies, and (3) unless otherwise specified in the state award, the costs do not exceed the maximum per diem and subsistence rates prescribed by the State of Texas Travel Guidelines published by the Comptroller. Notwithstanding the provisions of General Costs of Government, travel costs of officials covered by that section are allowable with the prior written approval of the state awarding agency when they are specifically related to the state award. (b) Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the local government in its regular operations as the result of the local government's written travel policy. In addition, if these costs are charged directly to the state award documentation must justify that: (1) Participation of the individual is necessary to the state award; and (2) The costs are reasonable and consistent with local government's established travel policy. (c) [Reserved] (d) If the local government does not have an acceptable or written travel reimbursement policy, the provisions of State of Texas Travel Guidelines published by the Comptroller will be used as guidance for local government travel under state awards. (e) Commercial air travel. (1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would: (i) Require circuitous routing; (ii) Require travel during unreasonable hours; (iii) Excessively prolong travel; (iv) Result in additional costs that would offset the transportation savings; or (v) Offer accommodations not reasonably adequate for the traveler's medical needs. The local government must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases. (1) Unless a pattern of avoidance is detected, the state government will generally not question a local government's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the local government can demonstrate that such airfare was not available in the specific case. (f) Air travel by other than commercial carrier. Costs of travel by local government-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of airfare as provided for in paragraph (d) of this section is unallowable.
Trustees	2 CFR § 200.475	Travel and subsistence costs of trustees (or directors) at IHEs and nonprofit organizations are not allowable unless authorized by state law. See also Travel Costs.

APPENDIX 8

SAMPLE PERSONNEL ACTIVITY REPORT

Compensation – Fringe Benefits

Personnel Activity Report

[Month] [Year]

Employee Name: [Name]

Project	Actual Activities Performed	Activity for Which Employee was Compensated (% of Total Hours Worked)
[Grantor Agency Name] Contract/Grant Nos. and Names		
XXXXXXXXX [Contract Name]		X%
XXXXXXXXX [Contract Name]		X %
XXXXXXXXX [Contract Name]		X %
XXXXXXXXX [Contract Name]		X %
XXXXXXXXX [Contract Name]		X %
Other Projects (Not Related to [Grantor Agency Name] Contracts/Grants)		X %

The information listed above is true and correct. [Grantor Agency Name] may request additional information.

_____

Employee Signature

_____

Date

_____

Supervisor

APPENDIX 9

Sample Request for Application Checklist

TxGMS does not require any particular method of grantee selection. Agencies should consult their counsel for help identifying a grantee selection method that complies with applicable law. This checklist is provided as a suggested reference for agencies using a request for applications or similar method. For further information on grantee selection, see Footnote 55 above and the accompanying text.

Opportunity/RFA Number _____	Authorized Official _____ Financial Officer _____ Project Director _____

Request for Applications Documents	N/A	Included
Pre-Award Phase		
Draft/Initial application documentation – All Parts/Attachments/Exhibits ☐ Funding Opportunity Description ☐ Award Information ☐ Eligibility Information ☐ Application and Submission Information ☐ Evaluation Criteria ☐ Application Review Information ☐ Award Administration Information ☐ Question/Agency Contacts ☐ Supplementary Material	☐	☐
Stakeholder Meeting Documentation (e.g., Needs Assessment, Cost Estimate, Acquisition Plan)	☐	☐
Reporting Requirement (including evidence of agency request and receipt of approval) – ☐ LBB Reporting Requirement > $50,000 ☐ Publish on agency website > $25,000	☐	☐
Finalized Application (including all parts/attachments/exhibits)	☐	☐
Internal Approval to Issue Request for Applications	☐	☐
Request for Applications Announcement (eGrants, optional and if applicable)	☐	☐
Pre-Application Conference Agenda and Sign-in Sheet (including dated eGrant printout) ☐ Voluntary ☐ Mandatory	☐	☐
Copies of Questions from Potential Respondents (including proof of timely receipt)	☐	☐
Question and Answer Document Issued	☐	☐
Scoring Matrix finalized, if applicable	☐	☐
Evaluation Committee Members selected, if applicable	☐	☐
Evaluation Documentation (If applicable)		
Copies of Responses		
Initial Screening of Application	☐	☐
Signed Non-Disclosure and Conflict of Interest Statement from each Evaluation Committee Member and, if applicable, Technical Advisor	☐	☐
Evaluation Committee Meeting Documentation (including agenda, guidelines)	☐	☐
Copy of Answers Received from Respondent(s) to Agency's Clarification Questions	☐	☐
Copy of Oral Presentation Agenda & Presentation Documents	☐	☐
All Completed Evaluation Committee Member Score Sheets (score sheets from all scoring committee members for all scoring rounds) Scoring Round: ☐ 1, ☐ 2, ☐ 3	☐	☐
Master Evaluation Score Sheet (completed)	☐	☐
Evaluation Review Process & Financial Review	☐	☐
Grant Award and Amendment Documentation		
Pre-approval Award Database Check ☐ Federal Database Check (SAM) ☐ Tax ID Check ☐ Debarment Check ☐ Child Support Obligation	☐	☐
Agency award notification to the applicant	☐	☐

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