



County Transportation Infrastructure Fund Grant Program Frequently Asked Questions

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FREQUENTLY ASKED QUESTIONS

County Transportation Infrastructure Fund Grant Program

A. Deadlines

Q: What is the deadline for accepting the grant funding?

A: The rules do not specify a date by which the agreement must be executed. Counties can begin incurring costs on the date they received their notice of grant award letter. However, they cannot receive reimbursement until they have executed an agreement. They cannot begin construction prior to receiving TxDOT authorization to commence construction on the individual project. TxDOT will not authorize construction until an agreement is signed and the required certifications are received from the county.

Q: Is there a deadline for completing projects?

A: There is not a specified deadline for completing projects under this program. Counties must start all projects on their project list within three years of signing the agreement or execute an amendment to their Agreement with TxDOT allowing a reasonable period for the county to start the project after the three years has expired.

Q: Is it true that TxDOT is going to sweep the project funding for any work that isn't completed 18 months after award?

A: No. The rules allow the Executive Director to prohibit a county from participating in the program if the county has not complied with one or more material requirements of the rules until such time as the Executive Director determines that the county has complied, or to remove a project from participation in the program if work on the project is not begun within three years after the date of the Agreement or within another reasonable period that is agreed to by TxDOT and the county. Proper notice to the county is required as defined in the rules.

B. Processing Agreement and County Signature Authority

Q: Are the terms and conditions of the agreement negotiable?

A: TxDOT has 191 county programs to oversee. So, it's necessary to have a standard agreement with all counties. For this reason, terms and conditions of the agreement are not negotiable.

Q: Is there an example resolution for authorizing county employee signature for the program?

A: No, TxDOT does not have an example resolution. It should be a resolution by the Commissioner's Court approving execution of the Agreement with TxDOT and authorizing a representative of the county to execute the Agreement. It is recommended (but not required) that in the same resolution, the Commissioner's Court authorizes one or more persons to sign invoices, certifications, etc. related to the Agreement. Designating one or more persons to represent the county in signing those items is a required submittal to TxDOT within 30 days of the Agreement being executed.

Q: What if my county attorney advises me that your agreement template violates statutory indemnification of county governments?

A: Please notify the TxDOT district point of contact for your county so that we may arrange a teleconference between your county attorney and our attorney responsible for drafting of the standard agreement.

Q: How does a county create a List of Transportation Infrastructure Projects if there is no combination of projects in the Prioritized Project List submitted by the county in its application that can result in an total project cost that matches the county's award amount from TxDOT plus its matching funds?

A: The county can accomplish this by reducing the scope or limits of one or more projects (thereby reducing the estimated cost) to meet the total of TxDOT award amount plus the county's matching funds. Once the projects are underway and actual costs are known, the project list can be amended as needed.

Q: Why does the award amount from TxDOT in the Notice of Award letter not match the amount the county requested?

A: The County Transportation Infrastructure Fund Grant Program had an allotted dollar amount of \$224.5 million to be distributed amongst eligible county applicants. In early 2014, TxDOT sent a notice to all 254 counties in the state. This letter included an estimated grant allocation amount based on the statutorily required allocation formula, with the assumption that all 254 counties applied for grants and were eligible. The Commission approved a program call for March 7-14, 2014, and the Department received applications from counties for grants under the program. The Department received 191 applications.

Since 191 counties did apply, 63 counties chose not to participate in the program and seek a grant. The 63 counties choosing not to apply originally had an estimated allocation of approximately \$22 million. The adopted rules limited the allocation for each county to the lesser of the amount requested in its application, or its share of the available funds (based upon the statutorily required allocation formula). Therefore, upon receiving no applications from 63 counties, that \$22 million was reallocated amongst the 191 eligible applicant counties in accordance with the rules. This resulted in an average increase of approximately 10 percent to counties that requested more than their original estimated amount (as indicated by TxDOT in early January). It appears that many more counties applied than some might have anticipated, resulting in fewer dollars being available for reallocation amongst grant recipients – and grant awards being only slightly higher (approximately 10 percent average) than the original minimum allocations per county estimated by TxDOT.

Q: When the counties are ready to execute agreements, what is the process?

A: The PDF of the Agreement is on the website (<http://www.txdot.gov/government/funding/county-fund.html>). This PDF allows information to be typed into the document where appropriate. The current version (dated April 1, 2014* in the footer) includes the addition of the TxDOT “Notice” information in paragraph 19, four information fields to the upper right corner of the attachments and a dollar sign (\$) in two locations on Attachment B. The county should obtain information for the fields in the top right corner of each page (Contract #, District #, Code Chart 64 # and project) from the TxDOT district point of contact.

The county is to prepare the Agreement by inserting the county name on the first page; the county “Notice” information needs to be inserted in paragraph 19; the resolution will need to be attached as Attachment A upon approval by Commissioner’s Court; and the county name, grant award amount and county matching fund amount need to be inserted on Attachment B. The grant award amount and county matching fund amount for each county are available at the same website. The county matching fund amount is calculated by taking the grant award amount (included in Notice of Award letter received from TxDOT) and dividing it by 90 percent (if the county is economically disadvantaged) or 80 percent (if the county is not economically disadvantaged) to calculate the total project costs, then subtracting the grant award amount. As an example, a county that is not classified as economically disadvantaged received a grant award of \$100,000 from TxDOT. The county matching fund amount will be $(\$100,000/0.80) - \$100,000 = \$25,000$. All entries into the Agreement described in this paragraph should be made electronically and not hand-written.

Upon completion of these items, the county should submit an electronic copy to the TxDOT district point of contact for review. Upon TxDOT district concurrence with the Agreement, the county may submit the Agreement to Commissioner’s Court for approval and authorization to execute. Upon execution by the county and inclusion of the resolution from Commissioner’s Court as Attachment A, two executed originals of the Agreement should be submitted to the TxDOT district point of contact. Upon receipt, the district will verify the Agreements are complete. When they are ready for TxDOT signature, the district will forward the two original Agreements to the Contract Services Office (CSO) for review and execution. Upon execution CSO will retain one executed original (as Office of Record) and return the other original to the district. Copies should be retained in the district files and one original forwarded to the county for its files.

Q: Can a county have multiple signature authorities instead of just one?

A: Yes, counties may have more than one individual with signature authority.

C. Consulting/Program Management/Administrative Fees

Q: Are consulting/engineering costs (including design, environmental, construction management, etc., and overall project management) eligible for reimbursement. If so, where does a county enter consulting fees on the invoicing forms?

A: Yes. Activities associated with a specific project and allocated as such or those specifically related to administration of the CETRZ are allowable costs. Project delivery tasks should be billed to each applicable project as a project expense. For example, environmental compliance costs should be allocated only to projects that required environmental review. Likewise, consultant assistance in assembling and preparing documentation should be allocated to each individual project rather than across the entire grant.

All project costs (including construction, consulting services, environmental reviews, etc.) should be listed as part of the project costs on the Individual Project Billing Summary Sheet. Counties need to attach to the Individual Project Billing Summary Sheet copies of all paid invoices for construction activities, consultant services, force account documentation and any other costs related to an individual project. Consultant services related to administration of the CETRZ should be included on the CETRZ Administration Billing Summary Sheet. Back-up materials to invoices paid by the county do not need to be included in the submittal to TxDOT. Charges for consulting services or program administration that are not directly allocable to projects or to CETRZ administration are not reimbursable.

Counties are responsible to make sure administrative costs comply with the program requirements and the Uniform Grant Management Standards. The administrative costs for the County Energy Transportation Reinvestment Zone reimbursable costs cannot exceed 5 percent of the total grant award for the county up to a maximum of \$250,000.

Q: Can a county be reimbursed for consulting/engineering cost incurred prior to the award of the grant?

A: No. Eligible costs are expenses that are incurred after the grant award notice. Costs incurred in preparation of the grant application, for creation of the CETRZ or for other program activities prior to the grant award date are not eligible even if they are not billed until after the grant award date.

Q: Counties often rely on outside professional grant managers to handle administrative functions (such as tracking and reporting, invoice/reimbursement requests, force account documentation, environmental review and compliance, labor standards compliance, acquisition/URA, etc. as well as a general requirement that we comply with UGMS and OMB Circular A-87). Assuming state procurement requirements are followed, will costs for these contracted services be eligible for reimbursement?

A. Counties are required to certify that they are complying with applicable laws and to submit invoices in a standardized format. Since the funds are coming from the state, the UGMS and OMB Circular A-87 apply – it is not a TxDOT-imposed requirement. Any of these services that are provided to accomplish performance of projects should be considered allowable and eligible expenses.

D. Design Criteria, Etc.

Q. Does the Design Criteria and Specifications need to be a written policy specific for these projects? Adopting Design Criteria and Specifications can be an involved process possibly requiring an engineer's assistance prior to adoption by Commissioner's Court. Can additional time be granted to complete this beyond the 30 day limit in Certification Form 1?

A. The county needs to have or adopt written design criteria, specifications and quality assurance standards that apply to these projects. They do not have to be unique standards that only apply to these projects. In many cases, a county already has standards for county roadway construction and maintenance. The intent is not to create a burden on a county to create new design criteria, specifications and/or quality assurance procedures. The intent is to ensure the roadway improvements are done to a minimum standard established by the county. The county may adopt TxDOT standards, an adjacent county's standards, a municipality's standards, AASHTO standards or create its own standards. Its standards need only cover the types of roadway improvements that it

will be making using the County Transportation Infrastructure Fund Grant Program funds. A time extension can be granted to extend the 30-day time period if felt necessary by a county. It is not intended that this requirement should have to delay the ability of a county to commence roadway improvements but that the improvements are done to a minimum standard established by the county prior to starting the work.

E. List of Transportation Infrastructure Projects

Q: On the start and completion date, can we use start date of May 2014 and completion date of September 2014?

A: Yes, depending on the project that may be an appropriate timeframe. The proposed schedule should reflect a reasonable estimated start and completion date.

Q: Can I list projects on the project list by precinct priority instead of county priority?

A: Counties need to provide to TxDOT a priority list for the entire county not by precinct.

F. Completion of Certification Forms

Q: If no additional right of way (ROW) is required, no utility relocation is required and there are no environmental permits required for a specific project, can a county pencil in "N/A" rather than check the ROW and other boxes on Certification Forms 2 and 3?

A: The county must check boxes and cannot indicate N/A. By marking the box, it documents to TxDOT and possible auditors that the county reviewed and appropriately addressed the item for the project. As an example, the item concerning ROW needs to be marked because this is certifying to TxDOT the county has right of entry or owns all the ROW required for performance of the project. This is applicable for property it has owned for years and not just acquiring new property for the project.

The ROW box indicates, "County certifies it has all required right of way or has obtained all necessary right of entry for performance of this project." If it has all the ROW, it can check the box. If it doesn't have the necessary ROW to do the work, TxDOT cannot authorize it to spend state funds on the project.

The Utility box indicates, "County certifies all impacted utilities have been relocated and identified on the plans." If there are no impacted utilities, it can check the box.

The same is true for the next three boxes on Certification Form 2.

Counties must submit a certification form (or multiple forms) for each project with all of the top 5 boxes checked or TxDOT cannot authorize construction to begin.

On the county-performed work and the contracted work areas, counties need to sign:

- Both of the county performed work boxes; or
- All three of the contracted work boxes; or
- County-performed design box and contracted work advertisement for construction and construction contract procurement boxes; or
- Contracted work selection of engineering, etc. and construction documents boxes and county-performed construction box.

If they don't do this for each project, TxDOT is not able to authorize construction. We believe the certification wording is appropriate for all situations for every project.

Q: Who performs the environmental study and who pays for it?

A: The county needs to ensure environmental investigations and analyses as appropriate for the specific project have been performed. On some projects no permits or regulatory clearances may be required. TxDOT requires a qualified professional certify that an appropriate amount of environmental effort has been performed. The

qualified professional can be a county employee or a consultant hired by the county. It is up to the county to deem if an individual is a qualified professional for the certification the person will be signing. The county pays for the necessary environmental review and/or activities. These project-related costs are reimbursable under this program.

Q: What will you do if we don't turn in any Certification Form 3 at the end of the projects (after funding is exhausted)?

A: The rules allow the Executive Director to prohibit a county from participating in the program if the county has not complied with one or more material requirements of the rules until such time as the Executive Director determines that the county has complied, or to remove a project from participation in the program if work on the project is not begun within three years after the date of the Agreement or within another reasonable period that is agreed to by TxDOT and the county. The rules also state, "if a county commences performance on a transportation infrastructure project but fails to complete the project, the department may seek reimbursement of all grant money received by the county for that project." Providing all certifications indicated on Certification Form 3 is a requirement to complete a project. The department will consider failure to provide the certifications as non-compliance with material requirements, will prohibit the county from participating in the program and will seek reimbursement of all funds previously reimbursed on that particular project. Proper notice to the county is required as defined in the rules.

Q: Will federal Davis-Bacon labor standards apply for contracted construction work? It is mentioned in UGMS and in state law ([Texas Government Code, Title 10, Chapter 2258](#)) but not singled out for mention in the Draft Procedures or Agreement.

A: Federal Davis-Bacon labor standards do not apply for contracted construction work under this program since no federal funds are involved. State labor rules and regulations do apply. Texas Government Code, Title 10, Chapter 2258 does apply.

Q: How should the county complete Certification Forms 2 and 3, and what type of documentation is needed by the county if the county will self-perform work related to a project with county personnel and equipment but plans to utilize outside resources to perform some tasks (such as paving, hauling, milling, leased employees etc.) under the county's direction? (added in May 27, 2014 update)

A: Certification Forms 2 and 3 provide for certifications related to county-performed work as well as for contracted work. For the situation when the county has self-performed the design, is performing some of the construction activities with its own forces, and is contracting out some of the construction phase activities:

1. Certification Form 2
 - a. County will check box indicating "Self-performed Design."
 - b. County will check box indicating "Self-performed Construction" (county is performing some activities with its own forces and is directing the activities of outside resources under contract with the county).
 - c. County will check box indicating "Advertisement for Construction Work" certifying that it has followed and will follow applicable laws and regulations related to advertising for procurement of those outside resources (which could include that there is no requirement for advertising).
 - d. County will check box indicating "Construction Contract Procurement" certifying that it has followed and will follow applicable laws and regulations related to procurement and selection of those outside resources. The county may write by hand on the certification form the elements of the construction work being contracted to outside resources, but this is not required.
2. Certification Form 3
 - a. County will check box indicating "Compliance with Standards" for the work performed by its own forces and the work performed by outside resources under contract with the county.
 - b. County will check box indicating "Construction Contract Procurement" certifying that it has followed applicable laws and regulations related to procurement and selection of those outside resources.

No attachments to the certification forms are required. The county's project records will need to include documentation to support the procurement of outside resources complied with applicable laws and regulations.

G. Materials and Force Account Costs

Q: Is it OK to go out for bids on an hourly rate for contractors to do dozer work and then include the resultant cost based on the hourly rate in the project's expense report submitted to TXDOT?

A: Yes, the expense is only allowable if incurred after the grant award notice. The county billing statements submitted to TxDOT for payment need to be for a specific project that has received TxDOT authorization to commence construction.

Q: Is it OK to go out for bids on a per mile basis for a contractor to do chip/seal work and then include the resultant cost based on the per mile basis in the project's expense report submitted to TXDOT?

A: Yes, the expense is only allowable if incurred after the grant award notice. The county billing statements submitted to TxDOT for payment need to be for a specific project that has received TxDOT authorization to commence construction.

Q: If the 9 miles of chip/seal work was originally listed as multiple projects on the project listing that accompanied our grant application, is it permissible to consolidate these multiple projects into one project on the new project list we will submit after execution of the Agreement? All of the 9 miles are not connected physically.

A: Yes, simply list as a single project on your List of Transportation Infrastructure Projects (submitted within 30 days after executing the agreement). If they are not connected physically, please include an attachment that indicates the start and end point for each of the sections of improvements within the length of the project.

Q: A portion of the rock that we use on the above 9 miles of chip/seal is in our inventory. It was purchased months ago and is currently stacked on the ground. Can the cost of this rock in inventory be submitted as an expense for this project, even though it has already been purchased?

A: No, only expenses incurred after award of grant funds may be reimbursed.

Q: Does TxDOT have force account labor forms such as the ones I used with FEMA?

A: No, TxDOT does not have a force account labor form. Counties may use a FEMA form or any other form that summarizes and documents force account work on the project.

Q: The Texas Rental Rate Blue Book available is only available to us by purchase at \$1,200+ for each volume. Can you get us a copy of the information we need from this book or is there another option?

A: No. TxDOT cannot provide to the counties Blue Book rates for equipment. Use of the Texas Rental Rate Blue Book is not required. Alternative sources for calculating reasonable equipment rental rates (including approved FEMA rates) are acceptable.

Q: Can the county purchase equipment through this grant program?

A: Purchase of equipment is not reimbursable under this program. The intent of the grant funding is for counties to use the allocated funds for the planning, construction, reconstruction and maintenance of transportation infrastructure including roads, bridges and culverts that have experienced degradation caused by the exploration, development or production of oil and gas activities. The term includes work intended to prevent or reduce further damage to a road and the lease or rental of equipment used for road maintenance. New equipment may be purchased by the county using county funds. The purchase is not reimbursable under this program, but its use on projects is reimbursable at appropriate force account rates.

Q: Can the county use existing procured contracts to purchase materials through this grant program?

A: The purchase of materials after receipt of grant award notice (used on eligible projects) using existing procured contracts is reimbursable.

Q: If I'm crushing my own material, how much can I charge the program for reimbursement?

A: In this situation a county can charge documented costs for the material on a force account basis, which would include labor and equipment used in crushing the material, testing and royalty payments (if included in a written contract between the landowner and the county).

H. Invoicing – Documentation/Forms

Q: Do we have to attach actual material invoices to the invoice I send to TxDOT for reimbursement? Or just summarize quantity received?

A: A copy of all project invoices (consultant, contractor, material, etc.) needs to be attached to the Individual Project Billing Summary Sheet. Back-up material provided in the invoices from the provider to the county should be retained in the county's files in case of audit but are not required to be submitted to TxDOT along with reimbursement requests (invoices).

Q: The Agreement between TxDOT and our county indicates, "The County shall submit ... a statement that no construction or maintenance work was performed during the previous month, in accordance with procedures defined by the State ..." Are there defined procedures for submitting a statement that no construction or maintenance was performed during the previous month?

A: At this time, TxDOT has not developed procedures for a county submitting a statement that no construction or maintenance work was performed during the previous month. This contractual requirement is waived until such time TxDOT develops such procedures and communicates them in writing to each county with an executed Agreement. *(added February 10, 2015)*

I. Authorization to Commence Construction

Q: Can we get work authorization for more than one project at a time in the county?

A: Yes, upon receipt of required certification forms for the program (Form 1) and for each individual project (Form 2), TxDOT can issue authorizations to commence construction on any or all projects (in priority order) on the County's List of Transportation Improvement Projects.

J. Projects on State ROW

Q: What is meant by the following: "contribute to TxDOT for each transportation infrastructure project located on the state highway system, from the amount awarded to the county from the Fund and the county's matching funds, if applicable, an amount equal to the allowable costs incurred by TxDOT for that project."

A: If the county desires to use funds awarded to the county under this program to improve a roadway on the state highway system, the work will be performed by TxDOT and the county will contribute 80 percent of the individual project cost to TxDOT from the funds it has been awarded under this program plus its matching funds equivalent to 20 percent of the cost of the transportation infrastructure project.