

Policy and Procedure Manual

**Workforce Solutions of West Central Texas
Board**

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I. Internal Controls

A. Accounting Procedures

The policies in this manual are intended to ensure compliance with state requirements, the U.S. Constitution, and Federal Law. The Board has established administrative standards designed to ensure the fiscal agent is accountable for the financial results of actions taken by financial and program managers; control of public resources and assets; and, financial management systems are in place to process and record financial events effectively and efficiently. Policies related to Board operations, including fiscal and contract management, are addressed in this Board Policy and Procedure Manual.

The basic tool in this process shall be the development and review of a monthly trial balance on a grant-by-grant basis. This trial balance will be supported by underlying detail schedules and reconciling totals. The trial balance and the related supporting documentation will be reconciled, completed and available for review by the 20th of the following month. This information shall be used as the basis for preparing timely, accurate, reliable and verifiable reports for use by management, staff, and oversight agencies.

Note: Section I.A. updated effective 8/1/20

Board staff will ensure the following.

1. The fiscal agent shall be responsible to develop internal controls to ensure the following objectives will be met. {TWC FMGC Chapter 2}
 - a. Protect and account for resources;
 - b. Prevent wasteful/unnecessary expenditures or the creation of liabilities;
 - c. Restrict liabilities, financial obligations, and expenditures of funds to those authorized;
 - d. Properly account for revenues;
 - e. Monitor the efficiency, accuracy and effectiveness of operations;
 - f. Ensure assets are safeguarded against waste, loss and unauthorized use or appropriation
 - g. Provide reliability of reporting for internal and external use and
 - h. Compliance with applicable laws and regulations.

2. The Board's fiscal agent shall ensure the following objectives are achieved when paying liabilities and recording disbursements. {TWC FMGC Chapter 2}
 - a. Purchases are approved in writing and in advance of purchase.
 - b. Documentation substantiating approval is maintained for each order or purchase.
 - c. Procurement documentation is maintained that substantiates that needed goods and services are purchased at the best possible value. Exceptions to this rule shall be justified in writing and maintained in the procurement file. (Purchase Orders are sent to Region 14 Education Service Center to encumber and pay; however, the backup documentation is retained at the Board offices).

- d. A complete audit trail exists for each purchase. An audit trail includes, but not limited to, an approved purchase or requisition request, receiving report, vendor's invoice and a canceled check for each voucher or payment.
- e. Limited authorized personnel are responsible for check signing.
- f. Each check should be reviewed to ensure the name of the payee and amount of the invoice agree with those on the check.
- g. To prevent duplication of payment, invoice numbers are entered into the accounting system for each payment. If a duplicate number tries to be entered, the system will flash a warning on the screen and must be addressed before further entry can be made. Once the payment has been processed, a copy of the check is attached to the front of the invoice and placed in the vendor files. The fiscal agent uses an electronic database to maintain files.
- h. Checks should not be made payable to "Cash" or "Bearer" nor should blank checks be issued.
- i. Checks should not be valid more than 90 days after issuance. This should be noted on each check.
- j. Access to blank checks and to signature plates, if used, shall be limited to authorized personnel.
- k. Trial balances should be prepared monthly.
- l. Bank accounts should be reconciled monthly.
- m. Payroll must be supported by time and effort records and disbursed in a secure manner. Board staff performs a quarterly time study that identifies administrative and programmatic duties accordingly. Payroll is then distributed between the admin and program cost pool based on that time study. At the end of the month, the cost pool is allocated to all state and federal programs based on the subrecipient's direct expenditures.

Note: Section I.A updated with minor wording changes effective 4/1/21

B. Drawdown of Funds (Payments)

Board staff will ensure the following.

1. Subrecipient requests drawdowns to reimburse their monthly expenditures by contract # and amount through the fiscal agent cash draw spreadsheet or other agreed upon format. For expenditures incurred by the Board, a cash request template is used to identify revenues received and expenditures paid to date based on accounting system records for each fund. The difference in expenditures over revenue is the amount that will be requested for each fund from TWC through CDER. If the cash balance is low, then pooled expenditures can be entered in the monthly allocation spreadsheet. The potential allocation to each fund is used to draw funds down. Upon the final monthly allocation, balances are settled up.
2. Subrecipient forwards request to the Board and fiscal agent simultaneously to provide notice to fiscal agent of anticipated fund request amount.
3. Board review and approval is required prior to fiscal agent release of reimbursement to subrecipient.
4. The fiscal agent draws down funds to reimburse the subrecipient through the TWC CDER system. Once the funds are received by the fiscal agent, the funds

will be released to the subrecipient within three business days of receipt of payment from TWC. As necessary, the fiscal agent prepares a check in the amount of the request, not to exceed the amount of the bond held by the subrecipient for its fund balance and forwards the check and/or electronic deposit to the subrecipient. 5. The fiscal agent prepares and signs drawdown request through the TWC on-line cash draw system.

6. TWC approves drawdown and submits check to fiscal agent by electronic deposit. If request has not been received in approximately five (5) days, the fiscal agent begins contacting TWC if the deposit is not received to determine if the request has been processed. TWC directly deposits all checks to the fiscal agent's bank by electronic transfer.
7. When check is received, the fiscal agent will ensure that a copy of the appropriate purchase voucher is coded in the general ledger with the account number.
8. For the amount requested by the subrecipient the fiscal agent prepares a check payable to the subrecipient in accordance with the Board cash request procedures.
9. A subrecipient may request a cash advance (with prior Board approval) for an amount equal or less than one month of anticipated expenditures. The advance must be settled by the subrecipient when monthly expenditures are reported to the Board. Subrecipients must disburse program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments under the award, regardless of the payment method used to request the payment (advance, reimbursement, working capital advance).

Note: Section I.B. updated effective 4/1/21

C. Contract Closeout

Board staff will ensure the following.

1. TWC will require the completion of a closeout package. The package will consist of the specified preprinted forms that must be completed. The forms usually address both financial and programmatic results for the award period. The fiscal agent shall check the award document or other instructions for the specific items required for a complete closeout.
2. Subrecipient s shall prepare a close-out package, using the same or similar forms as required by TWC, in sufficient time in advance of the due date for the close-out to allow for compilation of both Board and subrecipient data.

Financial Report

1. The final financial report for the award will include all allowable costs incurred on behalf of the program.
2. If the amount of funds received exceeds the total expenditures, a check payable to TWC will be submitted for the difference with the final financial report.

3. If the expenditures exceed the amount of funds received, TWC should send Board a check for the difference, provided that authorized budget levels have not been exceeded.

General Ledger

The fiscal agent assures that the financial expenditure report balances with the general ledger for the contract. All asset and liability accounts should be at zero or should represent amounts that are due to Board or owed by Board.

D. Banking

Board staff will ensure the following.

1. All funds from the Board will be deposited in institutions that are covered by the Federal Deposit Insurance Corporation (FDIC).
2. The Board or the fiscal agent shall carry collateral insurance to cover the maximum anticipated deposits in the account(s) that may exceed the FDIC limits.
3. No loans will be made against any WDB accounts.

II. Budget

The budget process is intended to allow a critical review of the Board's operations based on levels of service, historical data, regional objectives and Board policy.

The budget document is prepared each fiscal year and is the instrument used for presenting a comprehensive plan, expressed in financial terms, for accomplishing Board objectives for a given period of time.

In the Board's fiscal structure, resource funding depends primarily upon grants from federal, state and local governments. These grants normally are for a twelve month period. However, they may be awarded for a period shorter or longer than twelve months. This condition of resource funding creates a situation of "Dynamic Budgeting" requiring a flexible and responsible budget process.

Because of the Board's dependency on federal, state and local budgetary decisions, revenue estimates are based upon the best available information as to potential sources of funding. The Board's annual budget differs from that of other private or government agencies in two respects: 1) the uncertain nature of grant awards from other entities; and 2) conversion of grant budgets to a fiscal year basis.

The resultant annual budget is subject to constant change within the fiscal year due to:

- Increase/decreases in actual grant awards, from those estimated;
- Changes in grant periods
- Unanticipated grant awards not included in the original budget; and
- Projected grant awards which fail to materialize.

A zero-based budget philosophy will be followed in developing the Board annual budget.

Board staff will ensure the following.

1. The annual budgets are developed with the fiscal agent using historical data to inform the process. The budget shall be reviewed for accuracy, reasonableness and completeness.
2. The fiscal agent may incorporate any program income into the budgeting process, if known, and this shall note that this is a prospective resource.
3. The Executive Director presents the completed draft of the budget to the Board for review, modification and final approval.
4. Budgets are entered into the fiscal agent's accounting system for use in comparison to actual expenditures.
5. The Board's fiscal agent uses the annual budget to compare with actual expenditures each month.
6. After month end processing is complete, the fiscal agent compares the percentage of budget spent to the actual budget figures, and estimates what percent should be spent at that point.
7. This analysis should show the budget amount for each line item, current month expenditure, fiscal year to date total, project total (project total will be different from year to date total if the project period crosses two fiscal years such as WIOA) and the percent of budget spent.
8. At least monthly, the fiscal agent shall provide a financial report on a grant by grant basis detailing revenue and expenditures for the current month, cumulative totals to date, encumbrances, and remaining grant funds by line item (amount). The report shall also identify subrecipient expenditures on a grant basis and any variances.
9. At least quarterly, the Executive Director will review the budget, grant by grant to detect variances, evaluate expenditures in relationship to performance and identify the need for changes in budgets, contracts or spending.
10. The fiscal agent and Board shall develop projections, no less than quarterly, and identify any grants and/or line items with variances.
11. The budget is modified in the event that additional funds are received, funds are deobligated—voluntarily or non-voluntarily, funds are transferred or there is a reclassification of funds resulting in significant variances in one or more line items. Significant budget modifications will be reviewed and approved by the Board.
12. TWC and/or subrecipients shall be notified when there are budgetary changes that may impact services. Changes affecting subrecipients may require a subaward amendment, which will be initiated by the Board.

As the Board utilizes subrecipients in the process of providing program services, the subawards with these entities will include the same requirements for budget development, analysis and projections as established by these policies. The analysis and review of the subrecipients' budget-to-performance results shall be the responsibility of the Board staff. Impacts of subrecipients' budget changes shall be incorporated into the overall grant management process, as necessary.

III. Cash Management

A. Cash Management System

Board staff will ensure the following:

1. The fiscal agent will ensure that all blank checks and undeliverable checks are kept in a locked, secure location.
2. All fiscal agent checks are pre-numbered, sequentially, from the printer.
3. The fiscal agent shall record and maintain all voided checks. Additionally, these checks will be stamped void and/or defaced to prevent unauthorized use.
4. The fiscal agent shall insure that all cash balances are deposited in a federally insured financial institution.
5. The fiscal agent shall minimize the time lapse between the receipt of the funds and the disbursement of these funds.
6. The fiscal agent shall review all advance requests for reasonableness and to ensure that, under no circumstances, an advance is in excess of 20% of the contract award.
7. The fiscal agent has the cash flow to carry out immediate and normal program activities in the form of a cash advance to the Board to be paid by the end of the fiscal agent's budget year. A determination shall be made annually of the amount of anticipated advance. Cash requests to TWC are made on a reimbursement basis, as needed. Exceptions are as follows:
 - a) Subrecipient requests: Funds are drawn from TWC upon receipt of a request for reimbursement. The subrecipient is issued payment for reimbursement of reported expenditures within three working days of receipt of funds.
 - b) Unusual, infrequent and material expenditures: If advance funding provided by the fiscal agent are insufficient to reimburse unusual, infrequent and/or material expenditures, the fiscal agent will draw funds from TWC based on the actual invoice. The payment of such expenditures will occur after receipt of funds as part of the normal payment process.
8. The fiscal agent, at least annually, shall have an independent auditor procured to review all aspects of the fiscal agent's cash management system for compliance. This review will include banking collateral agreements, fidelity bonding, bank reconciliations, excess cash, cash forecasting, and security over cash.
9. The Board Executive Director or designee shall, at least annually, review all fidelity bonds for compliance with the rules and regulations as well as reviewing Board procedures.
10. The fiscal agent shall perform a cursory review of check signatures each month when the bank reconciliation is complete.
11. The fiscal agent, in conjunction with the Executive Director, may reject payments or withhold payments for any sound business purpose including:
 - a. Lack of authorized signatures on file;
 - b. Omission or unauthorized signatures;
 - c. Lack of sufficient documentation;

- d. Lack of adequate bonding;
 - e. Insufficient collateral agreement amount;
 - f. Failure to submit monthly expenditure or other required reports;
 - g. Delinquent audit reports;
 - h. Delinquent close-out reports;
 - i. Excessive cash on-hand;
 - j. A written request from the Executive Director to withhold payment.
12. The fiscal agent shall compare all checks, including voided ones, with the check register to verify date, number, amount and payee. 13. The fiscal agent shall ensure there is a separation of duties for individuals:
- a. Receiving Funds
 - b. Recording Funds
 - c. Depositing Funds
 - d. Signing checks
 - e. Cash handling
13. The fiscal agent shall ensure checks are mailed directly after being signed without the employee responsible for preparation having further access to them.
14. The Board shall not maintain petty cash or be responsible for handling cash.

B. General Ledger

Board staff will ensure the following.

1. Each fund/program shall be assigned an individual fund number in the general ledger system. Appropriate accounts shall be established for each program, including asset, liability, fund balance, revenue, and expenditure accounts. Account names shall be adequate to identify sources of revenue and classes of expenditure. Separate accounts are established within the fiscal agent's existing accounting system for accumulating and recording TWC funded activities.
2. Budget amounts shall be entered at the inception of the program, and shall be updated as necessary throughout the duration of the program.
3. The computer accounting system shall be able to process the following reports:
 - Current-month and year-to-date revenue and expenditure reports, including encumbrances and budget to actual comparisons, by program;
 - General ledgers and trial balances as of the current date, or any previous month end, by program;
 - Detail transaction history for all accounts (or any range of accounts)
 - Current cash balance reports;
 - Vendor histories, and
 - Charts of account.
4. Financial reports shall be processed on an as-needed basis for purposes of preparing reports, providing information, or assisting monitors and/or auditors.
5. Financial management system shall be structured to account for financial transactions in accordance with generally accepted accounting principles

(GAAP). System must be able to collect, process, maintain, accumulate, report and transmit data about financial events.

6. Fiscal agent shall use an accrual basis of accounting.

C. Bank Reconciliation

Board staff will ensure the following.

1. Fiscal agent's bank statements are received monthly.
2. Bank reconciliation procedures are performed by a representative of the fiscal agents office using the bank reconciliation module of the computer financial system.
3. Bank reconciliation work papers are maintained in the fiscal agents office and are available for inspection.
4. Bank reconciliation will be performed by fiscal agent by someone not responsible for check signing or cash handling.
5. Bank reconciliation will be approved by fiscal agent Chief Financial Officer or other staff without access to the bank account.
6. Bank statements and paid checks obtained directly from the bank will be received by an employee not responsible for check signing or check handling.

IV. Cost Allocation

Allowability of Costs: For costs to be allowable, they must meet the following factors:

- Must be necessary and reasonable for proper and efficient performance and administration.
- Be authorized or not prohibited under Federal, State or local laws
- Is consistent with policies, regulations and procedures that apply uniformly to awards and other activities of the Board.
- Cannot be charged as both direct and indirect.
- Must be allowable according to GAAP.
- Must not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award.
- Must be adequately documented.
- Must be incurred during the budget period of the State or Federal award.

Note: Section IV. updated with minor wording changes effective 4/1/21

Reasonableness of Costs: A cost is reasonable if, in its nature and amount, it does not exceed what would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration is given to:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the Board or the proper and efficient performance of the Federal award.
 1. Local budgets are approved by the Board for allowable costs.
 2. Costs associated with State and Federal grants are identified in the grant application and approved.

- The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining/transactions; Federal, State and other laws and regulations; and terms and conditions.
- Market prices for comparable goods or services.
- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the Board, its employees, the public at large, and the Federal government.
- Significant deviations from the established practices of the Board may unjustifiably increase costs.

Allocability of Costs: A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with the relative benefit received. Allocable costs will not be charged to any other cost objective to overcome fund deficiencies, to avoid restrictions imposed by law or terms of Federal awards, or for other reasons. If a cost benefits two or more cost objectives in proportions that can be determined without undue effort or cost, the cost must be allocated to the objectives on a proportional benefit. If a cost benefits two or more cost objectives in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated to benefitted objectives on any reasonable, documented basis. The fiscal agent in conjunction with Board staff shall establish a basis for allocation of Board budget costs by preparing a cost allocation annually at the beginning of the Board's fiscal year. Subrecipients may establish cost pools, if agreed to and approved by the Board. If such pools are established, the Board shall require a description of the costs associated with the pool and methodology.

Board staff will ensure the following.

1. Review the basis for allocating costs across grants no less than annually.
2. On a quarterly basis, Board staff shall review, and revise, if necessary, their time allocation across functions and activities. The fiscal agent shall incorporate any changes resulting from this review into the allocation of costs and shall continue to use the same allocation percentages until the time of the next review.
3. Determine whether the methods yield charges to the grants which are in proportion to the benefit received no less than annually.
4. If necessary, change to another allowable method of allocation.
5. Assure there is federal/state regulations manual consistency in cost allocation. Therefore, a cost must be treated in a like manner each time it occurs and for every funding source without prejudice to the type of fund (2 CFR Part 210.412).
6. Subrecipient(s) must present in writing at least annually, a description of their cost allocation plan, budget, financial audit and any other information needed to review the allocation plan and ensure compliance with the TWC FMGC rules and regulations. Such plan shall be reviewed and approved by Board staff prior.

V. Disbursements and Payables

A. Purchase Orders

Board staff will ensure the following.

1. Using sequentially numbered purchase orders (PO) is the recommended method of obtaining authorization for issuance of a check for payment of goods or services. Such PO's require the approval of the Executive Director or their designee.
2. Each purchase order shall have the account to be charged indicated in the appropriate box or a description of the funding source(s) and/or benefitting parties (i.e. customers, Board, subrecipient, etc.) to ensure that funds are properly allocated. Purchase orders shall also include:
 - a. Supplier name and address
 - b. Quantity of goods
 - c. Description of goods
 - d. Price
 - e. Payment/invoicing instructions
 - f. Discounts, if any
 - g. Delivery instructions
 - h. Other pertinent information
3. Each purchase order shall be dated on the day of issue for proper allocation to the appropriate budget period.
4. The Board's Office Manager prepares the PO.
5. The Executive Director (or personnel indicated in Step 1) reviews for accuracy, codes for proper fund allocation (charges), as appropriate, and approves the PO.
6. The fiscal agent also checks for accuracy of mathematical calculations and enters the correct amount as an encumbrance.
7. For receipt of goods from a purchase order, the Office Manager or designated individual checks in goods, and, as appropriate, provides information to staff responsible for inventory logging. Receiving procedures include:
 - a. Compare the quantity (and quality) of goods received with the purchase order and shipment invoice
 - b. Tagging any items that will be included in inventory
 - c. Recording the receipt of items on the purchase order
 - d. Orders received in partial/multiple shipments will be recorded on the purchase order as received and provided to the Office Manager after the complete order has been received and verified
8. If any deficiencies/damages are found in the shipment, the Office Manager will contact the vendor and inform them of the damaged or missing items, and to determine how it will be addressed (such as, but not limited to, return of items, refund of money, re-order, second shipment, etc.). Depending on the action, payment might be made only for items received or might be withheld until all items are received and the item(s) and condition is verified as acceptable.
9. Upon verification of goods or services received, the Office Manager notifies the fiscal agent of receipt.
10. Upon notification, the fiscal agent prepares and mails a check to the vendor. The fiscal agent is encouraged to pay invoices in a timely manner to take advantage of any applicable discounts.

11. The Board's Office Manager (or designee in their absence) is responsible for reviewing the purchase order log periodically to ensure that purchase orders don't remain open for extended periods of time, without documentation of the reason.

Note: Section V.A. updated effective 8/1/20

B. Cancellation Procedures

Purchase orders must indicate the terms under which an order may be cancelled. This will typically be indicated by a timeframe for receiving the order. For example, a purchase order for supplies may state that the order may be cancelled if not received within 60 days (or whatever number of days is reasonable for that order). Since this may vary with each order, there is no set limit or criteria in this policy.

Note: Section V.B. updated effective 8/1/20

C. Request for Payment

Board staff will ensure the following.

1. In the event a bill is to be paid directly from an invoice for which no purchase order exists, (i.e. rent, telephone bills, utilities, miscellaneous expenses, credit card billings) a Check Request, a Payment Review and Approval Form (PRAF) or a signed approval/authorization will be generated by the Board staff. The Board shall maintain copies of invoices and supporting documentation in an electronic database.
2. Similar to Purchase Orders, the Check Request, authorization or PRAF is reviewed and an identification of funding source or benefitting parties, as appropriate, included and approved by the Executive Director or their designee.
3. The Check Request, authorization or PRAF, with the back-up documentation, is sent to the fiscal agent for processing. The Board may transmit the information electronically to the fiscal agent.
4. The fiscal agent reviews for mathematical accuracy and generates the payment and/or check as indicated on the request.
5. The check may be mailed directly to the payee, or returned to Board staff for distribution as indicated on the request (as in the case of a travel advance for an employee).
6. The fiscal agent shall file the check copy and supporting invoice by vendor and shall maintain these records in accordance with established records retention policy. The fiscal agent may maintain records in an electronic database.
7. At the end of each program, all expenditures incurred during the program year that have not been disbursed shall be accrued into the appropriate expenditure/reporting period. All accrued expenditures shall be liquidated within ninety (90) days of program year-end.
8. Returned purchases are charged appropriately back to vendor and proper adjustments recorded in the fiscal agent records.

D. Monthly Report Preparation

Board staff will ensure the following.

1. Financial reports are due to the TWC by the 20th. of each month, for the previous month's activity.

2. Subrecipients are to provide monthly reports to the Board and fiscal agent on forms approved by the Board or TWC.
3. The Board reviews monthly expense reports of the subrecipient(s) for accuracy and completion and forwards to the fiscal agent for review and processing
4. The fiscal agent, using information submitted by subrecipient(s), combines this information with board expenditures to complete the monthly report submitted to TWC. The fiscal agent submits the Summary and Detail Expenditure Reports to TWC by the 20th of the month.

VI. Program Income

As defined in the Common Rule and 2 CFR 200.80, program income means gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the budget period, except as provided in Section 200.307, paragraph (f). 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 Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, etc., or interest earned on any of them.

The Executive Director, or subsequent personnel in the chain of command, shall consider the following in determining if program income has been generated:

- Does income from fees resulting from TWC-contracted funds for activities, services or programs exist?
- Does income from the use or rental of real estate or personal property acquired with grant or sub-grant funds exist?
- Have revenues been earned by a governmental or private non-profit subrecipient under either a fixed-price or reimbursable award that are in excess of the actual costs incurred in providing the services?
- Has interest income been earned on advances of sub-grant funds?

The fiscal agent will account for program income by grant in its accounting system.

Program income will be utilized according to the following priorities:

- 1st Priority: Program income that offsets costs or augments training in future training programs operated by a subrecipient or expands services provided by the Board
- 2nd Priority: Income that provides additional training related services to eligible participants.
- The Board will recapture or withhold program income received from future subrecipient earnings.

Program income will be used for eligible activities during the year in which it was earned. The subrecipient shall be responsible for tracking and reporting of program income.

A plan for the disposition of program income generated by the subrecipient must be submitted to the Board prior to expenditure. Such income must be spent on line items identified in the subrecipient's plan and/or subaward unless the plan and/or subaward is amended.

After the program income has been expended, the subrecipient shall submit the final disposition report to the Board along with appropriate documentation.

Note: Section VI. updated with minor wording changes effective 4/1/21

VII. Insurance and Liability

A. Maintenance of Insurance and Liability Coverage

The fiscal agent under the auspices of the Board will hold all bonding and insurance requirements required by TWC and applicable programs. The amounts of the bonds and insurances will meet or exceed all minimum requirements described in the TWC FMGC.

Board staff will ensure the following.

1. The Executive Director or their designee will review at least annually all insurance and bonding of the Board and all subrecipients.
2. The Executive Director will have all subrecipients independently monitored at least annually and the monitors will be required to review all insurance and bonding for compliance with the rules and regulations.
3. The Executive director or designee will ensure that copies of required bonds are available to TWC for review.
4. Insurance policies will cover general liability, vehicles, fidelity bonding, and participant coverage as required in the TWC FMGC. The Board shall require that all entities with a subaward to provide program services for the Board shall have a fidelity bond.
5. The Board will ensure that the fiscal agent maintains a blanket bond that covers all Board employees.
6. The amount of the bond shall be equal to the maximum anticipated amount of funds on hand at any point.
7. The Board shall be the bond owner but TWC shall be the certificate holder.
8. All recipients of funds from the Board shall also obtain a blanket fidelity bond and name the Board as the certificate holder. Provisions requiring this insurance shall be included in all subawards with program subrecipients and shall be the responsibility of Board staff to ensure current copies are maintained in the subaward files.

VIII. Reporting Systems

A. General Procedures

In September 1993, the GASB issued Statement No 20, "Accounting and Financial Reporting for Proprietary Funds and other Governmental Entities that use Proprietary Fund Accounting." The fiscal agent is required to adopt GASB 20 in fiscal year 1995. GASB 20 allows the fiscal agent to elect to apply all Financial Accounting Standards Board (FASB) pronouncements issued after November 30, 1989, except for those that conflict with or contradict GASB pronouncements, or to apply all GASB pronouncements and only FASB pronouncements issued before November 30, 1989.

The fiscal agent computerized system, with very good internal controls, and annually audited by an independent CPA and Board monitoring should provide the oversight needed to ensure compliance with all reporting requirements.

Board staff will ensure the following.

1. The Executive Director or their designee and the fiscal agent shall annually review the accounting and reporting policies of the Board relating to the funds and account groups to ensure that they conform to generally accepted accounting principles applicable to State and local government.
2. The Board's oversight of the fiscal agent for workforce development programs, including those consolidated under Texas H.B. 1863, shall be conducted independently of those of its own governing body's annual evaluation and monitoring of all financial management of funds administered by the Texas Workforce Commission (TWC) and related agencies, including a review of the following:
 - a. Tracking of specific program expenditures by cost category;
 - b. Matching stand-in costs by title, grant, and by contract;
 - c. Ensure information is readily available to Board staff, management, and Board;
 - d. Review independent audit and management letters to identify system weaknesses and actions taken to correct.
3. The Board shall ensure that the fiscal agent, program subrecipient(s) and other subrecipients provide reports in sufficient detail to:
 - a. Meet Board oversight responsibilities;
 - b. Meet TWC reporting requirements and
 - c. Meet legislative reporting requirements.

B. Annual Audit

1. The Board shall ensure an annual audit made in accordance with the Single Audit Act of 1984, the Single Audit Amendments of 1996, P.L. 98-502, and 2 CFR Part 200 Subpart F as applicable and in effect at the time costs were incurred, in accordance with the U.S. Constitution, federal laws and regulations governing the program(s), is procured by the Board for all funds under the

responsibility of the Board. The Board shall also ensure that the fiscal agent and subrecipients shall procure and conduct annual audits that meet these same requirements. The Board shall ensure that the fiscal agent and subrecipient(s) shall retain the records necessary to perform the audit.

2. The fiscal agent shall cooperate and assist in the completion of the Board's audit. The Board or their procured auditor shall provide a copy of the audit to the fiscal agent and shall directly submit the required number of copies to the TWC within the required timeframe.
3. The Board with the assistance of the fiscal agent shall be responsible for addressing any deficiencies or issues identified by the auditor and/or TWC within the required timeframe.
4. The Board shall ensure that the fiscal agent is informed and aware of the resolution of any issues in a timely manner.
5. The independent CPA firm responsible for conducting the audit will make a presentation directly to the Board in a public meeting.
6. Board audits will comply with the requirements in FMGC Chapter 20.

Note: Section VIII.B updated effective 4/1/21

C. State Reporting Requirements

House Bill 1 of the 75th. Texas Legislature has instituted some particular reporting requirements for Workforce Development Boards. These requirements relate to budgeting, financial reporting, and other fiscal reporting. To comply with the legislation the Executive Director shall ensure the following:

1. The fiscal agent shall prepare an itemized budget covering the operation of that fiscal year, which shall be filed with the TWC per their requirements and instructions.
2. All subsequent amendments to the original budget shall be filed with TWC, when necessary and appropriate, utilizing the required budget process.
3. An annual report (HB1) is developed in compliance with the requirements established by TWC, the Legislative Budget Board and/or the Governor's Office of Budget and Planning. Such report shall be prepared to present financial position, results of operations, and changes in financial position for the fiscal year, in conformity with reporting guidance provided by TWC no later than 90 days following the close of a fiscal year.
4. The annual report shall be prepared in accordance with GAAP. The report shall include a summary of revenues received by source, and a summary of appropriations, expenditures, bono fide encumbrances, and all other disbursements for the year.
5. The report shall include a list of all bonded employees, showing name, title, and the amount of bond, and the name of the surety company.
6. The report shall include an analysis of space occupied by the organization showing the number of square feet rented and the number of square feet occupied in state-owned buildings, giving the location of such space by building name or address and the number of square feet devoted to office, warehouse or other designated uses indicating the cost per square foot, cost per month,

annual cost and lessor of all rented space, and such other information as may be of assistance in describing the space utilized.

7. The report shall include an itemized statement of all professional and/or consulting fees paid out of appropriations made by this Act. The statement shall include the name of each person, partnership, corporation or other business entity receiving such fees and for what purposes the fees were paid. Except as otherwise provided by this Act, the statement shall include the services of licensed professionals and the personal services of individuals or entities under an independent contract to study or advise the agency.
8. The report shall include a section confirming that the inventory report is an accurate and complete record of the agency's real property as of the date specified, or if the report is not accurate and complete, that the appropriate updated forms will be submitted within 15 days of the date of the annual report.
9. Indirect Costs: The annual report shall include a supporting schedule detailing total expenditures made by the Board and on the Board's behalf by others. Expenditures made on the Board's behalf by subrecipients should include, but are not limited to: employee benefits such as social security matching costs, health insurance, and retirement contributions; benefit replacement pay; worker's compensation payments; unemployment compensation payments; bond debt service; and an allocation of indirect cost from such general government agencies as the Comptroller of Public Accounts, when applicable.

IX. Independent Oversight and Contract Management

A. Independent Oversight

Board staff will ensure the following:

1. Subawards under the administration of the Board shall be monitored no less than annually, primarily by the Board and/or their designee, which may include an independent monitor or the fiscal agent.
2. A risk assessment process shall be used to determine high, medium and low risk areas. A Monitoring Plan and Monitoring Schedule will also be developed by the Board or their designee.
3. Subrecipients for workforce services will conduct the following activities:
 - a. Maintain an internal monitoring system to conduct regular quality assurance on an on-going basis and perform an annual monitoring review of all aspects of categorical workforce development programs described in Texas HB 1863, including areas listed below. An independent monitor may also be procured to assist.
 - b. Submit written report of findings to the Board.
 - c. Review monitoring procedures annually for procedural changes.
 - d. Develop and utilize an annual risk assessment.
4. The following areas shall be included within the scope of the Board's annual review and evaluation of programs:
 - a. Intake and assessment procedures
 - b. Participant eligibility

- c. Procurement
 - d. Reports, budgets and participants served
 - e. Allowable costs
 - f. Classification of costs
 - g. Limitation on certain costs
 - h. Grievances investigations and hearings
 - i. Fraud, waste and abuse
 - j. Classroom training programs and use of ITA's
 - k. Subrecipients review
 - l. Program accessibility
- (These evaluations may be made by desk review of reports, field (on-site) visitation and monitoring of files and records)

5. A facilities accessibility survey will be conducted each year by the Board EO Officer.

B. Monitoring Reports and Resolution

(FMGC 19 and 40 TAC §802.65)

In accordance with the Board's monitoring plan, the Board shall conduct reviews of subrecipients. The Board may also conduct special or additional reviews due to extenuating circumstances that may include, but are not limited to, changes in key personnel, identification of potential fraud, higher than acceptable error rates, follow-up on prior monitoring events, or other circumstances where the Board believes additional monitoring is of value.

1. Upon completion of a monitoring event, the Board shall prepare a written report that identifies the scope of the monitoring, the performance timeframe and observations, and findings or recommendations, as applicable.
2. If there are no findings, the report may be issued as a management letter or final report.
3. If there are findings, the Board will issue a draft report and set a time period for response. The format of the response shall in accordance with the guidelines established in WB 21-21. The Board shall review the responses and issue a final report.
4. In the event of unresolved issues, for subrecipients in an on-going contract relationship, the Board may require the subrecipient to develop a corrective action plan, receive additional technical assistance and/or conduct additional monitoring.
5. In the event of unresolved issues that result in questioned costs, the Board shall issue a determination letter indicating the basis and amount of the questioned costs and specify the time period and method of response. Subrecipients will be allowed a maximum of 15 working days to provide a written response and any evidence or documentation in support or dispute of the determination. The response and supporting documentation will be reviewed by the Board for adequacy. If the issue is resolved, the issue(s) will be deemed closed and a closure letter will be issued.

6. If the issue remains unresolved, a written resolution letter will be issued disallowing the costs and setting forth the amount and the basis for the disallowance. The subrecipient will be allowed a maximum of 15 working days to submit a response.
7. In the event of dispute of the resolution, if the subrecipient documentation is deemed adequate by the Board to support that a disallowed cost is allowable, the Board shall issue a final determination letter that closes the issue.
8. If issues remain unresolved after the time period allowed for response by the subrecipient, the Board shall issue a Final Resolution that establishes the debt and requires repayment using one or more of the methods identified in section IX. B. 9 no later than 15 working days from date of issue of the final resolution letter. All decisions of the Board are final and may not be appealed.
9. In the event of disallowed costs as a result of the resolution process when repayment is required, the following methods of satisfying debt may be allowed:
 - Cash repayment from non-federal sources,
 - Withholding of funds (for subrecipients with an on-going contract, and if allowed by the applicable grants/programs/funding sources and/or cost objectives),
 - Use of stand-in costs (allowed only for entities currently under contract with the Board to provide workforce services). To be allowed, stand-in costs must satisfy the criteria in the TWC FMGC.
 - Or other methods identified by the Board or agreed upon methods as outlined in writing by the Board to the subrecipient.
10. In the event the subrecipient fails to respond within the specified time period, the Board may impose a sanction in accordance with WB 21-14. In the event the entity is no longer in a relationship with the Board, the Board may withhold funds from any unpaid reimbursement requests or may pursue legal action, if necessary to collect the debt.

C. Audit Review and Resolution

(FMGC 20.2-20.4)

As part of the contract management process, the Board shall review subrecipient audits. The fiscal agent may assist with the audit review process. The Executive Director will designate the person/position responsible for audit review and resolution.

1. The subrecipient must agree to provide a copy of the most recent independent auditor's report to the Board within 180 days after the close of the contractor's audit period for all Board funds. Should the audit period not correspond to the period of operation of the Board program activity, all audits related to Board funds must be provided for the subsequent time period until an independent audit report of all contracted Board funds has been provided to the Board. The Board Executive Director may waive the requirement to provide audits that extend beyond the contract period at their discretion. {LOP}

2. In the event of audit findings and/or questioned costs, the Board will utilize the following process to resolve the audit (Note: The timeframes in 2a-3 were locally established and meet FMGC requirements.):
 - a. An initial resolution letter will be developed within 45 days from receipt of the audit report.
 - b. Negotiation of cost allowability will begin within 90 days from receipt of the audit report.
 - c. Follow-up resolution and final determination within 120 days from receipt of the audit report will be instituted.
 - d. A final decision within 150 days from receipt of the audit report will be made.
3. After the resolution process is completed, an Initial Determination letter will be issued by the Board identifying the conditions for informal resolution of any unresolved audit issues. A final determination letter detailing any remaining audit issues will be issued no later than 180 days from receipt of the audit report, and any remaining questioned costs will be disallowed and repayment procedures implemented.
4. When a debt is established, the following debt collection methods will be employed:
 - a. Cash will be the Board's first preference
 - b. Installment payments
 - c. Adjustment in payment when cash is impossible – only for current subrecipients.
 - d. Services in lieu of cash – only when the services are needed by the Board program and cash or adjustment in payments is impossible
 - e. Withholding funds – only for current subrecipients.
 - f. Stand-in costs – does not include uncompensated overtime; unbilled premises costs associated with fully depreciated publicly owned buildings; allocated costs derived from an improper allocation methodology; or discounts, refunds or rebates; and must meet the following criteria
 - i. must have been allowable costs incurred under the subaward, but not charged to any program administered under the subaward
 - ii. must have been included within the scope of the audit
 - iii. must have been accounted for in the auditee's financial system
 - iv. may include cash match (expenditures of the organization used as match) that exceeds match requirements under the subaward, but does not include in-kind match
 - v. must come from the same year as the costs that were proposed to be replaced
 - vi. must not cause costs to exceed administrative or other cost limitations
5. Debt collection procedures will include an arrangement for a repayment schedule which may include any applicable interest. The demand for payment will be included in the Board's letter/notice of final determination establishing the debt. Prompt action will be necessary to protect the government's interest; e.g., prompt legal action may be required in anticipation of executing the statute of limitations.

D. Subaward Management

The Board will maintain a subaward management system to ensure that subrecipients perform in accordance with the terms, conditions, and specifications of their subawards. Subrecipients will be required to submit monthly reports to their assigned contract manager, that, at a minimum, address program and fiscal performance, quality assurance activities and any items of significance. Board staff responsible for subaward oversight and management will submit monthly reports to the Board Executive Director that addresses subrecipient program and fiscal performance, quality assurance activities, subaward management activities, areas of concern or issues, positive highlights and any follow-up items from the prior reporting period. Board staff will meet with subrecipients on a regular basis to review reports and discuss other business. Board staff will also meet regularly as a group to discuss subrecipient reports and other items related to subaward management, such as recently released guidance from federal or state agencies, training and technical assistance needs of subrecipients and development or amendment of policies affecting subrecipients.

X. Payroll and Personnel Management

A. Recruitment, Selection and Hiring Policies

The Executive Director may initiate the hiring of staff. Depending upon the process that is recommended and approved, a variety of interviewing and hiring steps will be utilized. Additional information is contained in the Board's Personnel Policy Manual in Section 4. Generally these steps will be followed:

1. Job openings will be posted in house for a minimum of three days, unless it is deemed that there would not be any potentially qualified candidates.
2. Written job descriptions are maintained in the hiring process file and the employee's personnel record. These descriptions list the minimum qualifications for that particular job. Whenever possible, these qualifications include education, experience, skills, and competencies required in as many combinations as practicable. Job descriptions for comparable State positions will be reviewed and used in the development of the job description. Lists of duties for a position are included in as much detail as is reasonable and necessary.
3. All applications submitted for any job opening are maintained in the hiring process file for that job. The Administrative Assistant maintains hiring files, compiles the number of applicants, indicating those interviewed and any other pertinent information in a central file.
4. If an adequate pool of applicants is **not** developed from the internal posting, the job will be posted in the State job matching system and on the Board's website. Ads may be placed in one or more local newspapers or social media may be used to outreach potential job applicants. The announcement will include a general description of the position, the closing date for accepting applications, and information for obtaining an application. The application will be accessible via the Board's website.

5. After the closing of the application acceptance period, all applications will be reviewed and rated using an objective and standardized system by appropriate staff. Based on the rating, a determination will be made as to whether the applicant will be interviewed. The rating instrument will be completed and attached to all applications.
6. Interviews will be scheduled for candidates within the top rating group. Not all candidates within this group must be interviewed. Reviewers/interviewers may determine how many candidates will be interviewed. Any individual within this group may be interviewed without regard to their numerical ranking.
7. Applicants will be interviewed using a uniform list of questions to ensure equity. Responses to questions will be recorded on the question form. One or more interviewers may conduct the initial interview.
8. Following the interview, an evaluation is made of the candidates and a decision made as to whether the applicant will be selected for further consideration or hire, and, in some cases, scheduled for a second interview. The second interview is normally conducted by other staff, additional staff or a combination of Board and staff members.
9. The same procedure described in step 7 is used for the second interview.
10. Prior to any job offer, references listed and those former employers indicated on the application (with the written consent of the applicant) may be contacted for information concerning the applicant's work skills. The results of these contacts will be taken into consideration for each applicant checked as to whether a job offer will be made. The Board will perform a background check for all positions (a tentative employment offer may be made in advance, contingent on passing the background check).
11. The State system for job classification will be consulted and used as a guide for establishing the appropriate salary offer range, based on the individual's qualifications, experience and skills.
12. A written offer of employment describing salary and benefit levels will be made to the selected applicant.
13. The applicant will be requested to provide acceptance or rejection of the offer in writing to the Board.
14. If the "first choice" candidate does not accept the Board offer, evaluations of second and subsequent choices will be reviewed and a determination made regarding the next candidate to receive a job offer or if an offer will be made to another candidate.
15. If the interviewer/interviewers deem that other candidates are not acceptable, the job may be re-posted or other applicants, not previously interviewed, may be interviewed.
16. On the first day of employment the new employee will be given the Board Personnel Policies and the forms, acknowledgements and certifications necessary to be in compliance with all Federal, State, TWC and Board requirements including the Drug-Free Workplace Act of 1988; the Fair Labor Standards Act; the Family Medical Leave Act; and the Americans with Disabilities Act. These forms include a Code of Ethical Conduct that outlines all appropriate actions required of the employee, including the adherence to a

conflict of interest statement. Additional information regarding personnel policies is included in the Board's Personnel Policy Manual.

17. The new employee will also be provided benefit information by the fiscal agent and the forms necessary to complete enrollment during the first ten working days of employment.
18. The Board E.D. or other designated staff notifies the fiscal agent, in writing, of the salary, start date and other pertinent information.
19. The employer of record maintains official personnel files and is responsible for ensuring security of personnel records.
20. The Board also maintains copies of personnel records in the Board offices, which may include selected information such as application, job offer acceptance, employee evaluations, disciplinary actions and other appropriate recognition and/or performance appraisals. Information related to employee benefits, medical information or regulatory requirements is maintained by the fiscal agent.

Note: Section X.A. updated effective 8/1/20

B. Employment Separation

Information on voluntary and involuntary employment separation is detailed in the Board's Personnel Policy Manual in sections 13 and 14.

C. Compliance with Legal Requirements

Board Staff will ensure the following.

- Board provides each employee with a signed copy of Board's EEO statement.
- FMLA requires the completion of a statement from the requesting employee's medical practitioner verifying the need for FMLA leave. This form is kept in the employee's separate medical file.
- FMLA determination for each position is made by management staff and approved by the Executive Director.
- All other applicable laws and regulations are maintained and adhered to by the Board, as required and necessary, which includes but is not limited to:
 - The Drug-Free Workplace Act of 1988
 - The Fair Labor Standards Act
 - The Family Medical Leave Act
 - The Americans with Disabilities Act

D. Payroll Processing

The Board Executive Director or their designee will ensure:

1. Payroll records, including time sheets, are reviewed for accuracy and validity, and signed by the Executive Director and forwarded to the fiscal agent.
2. When timesheets are completed prior to the ending of payroll period to comply with fiscal agent requirements, the Executive Director or their designee shall ensure that any subsequent changes in actual time reported are identified and any required adjustments addressed during the subsequent payroll period or as quickly as possible. An updated or revised timesheet shall be submitted to the fiscal agent reflecting any adjustments.

3. All employees will maintain detailed time records in accordance with Board Policies and Procedures manual.
4. The fiscal agent will ensure payroll registers are reconciled to independent controls (such as totals to the prior month's totals).
5. The fiscal agent will ensure its' automated system will accurately compute fringe benefit changes.
6. All leave requests shall be signed by the Executive Director and be submitted for approval.
7. All staff payroll shall be paid only by direct deposit by the fiscal agent.
8. Removal of a terminated employee from the payroll system shall be performed by the fiscal agent upon the written request of the Executive Director.
9. Board staff completes monthly time sheets indicating hours worked each day during the pay period. Time sheets are maintained in hourly increments and costs allocated by program in accordance with the agreed upon methodology.
10. Using appropriate pay rates as established by the Board, and applying any payroll deductions for each employee, the fiscal agent updates payroll records.
11. Payroll information is maintained by the fiscal agent in an electronic system that is accessible to employees at any time.
12. The fiscal agent prepares and prints a journal entry required for paycheck preparation and maintains records in accordance with recordkeeping procedures.

XI. Property Control

A. Property Control

Board staff will ensure the following.

- Proper procurement procedures are followed in the purchase of property.
- Prior to the procurement of equipment, the Board will submit TWC Form 7100 to the TWC Grant Manager. After the TWC concurrence letter is received, the procurement will be conducted. Upon acquisition of the equipment, the Board will submit TWC Form 7200 to the TWC Grant Manager within 30 calendar days.
- Evaluation and approval of capital expenditures, leases and maintenance or repair projects in excess of \$10,000 are included in the budget and as such are approved by the full Board or its' designated committee.
- An individual is identified to serve as the Property Control Officer. This individual is responsible for maintaining a computerized property record at the Board Offices. Information on the inventory shall contain all required information, including but not limited to: item description, price, grant funds used for purchase, serial numbers or other identifying information sufficient to support verification when lost, stolen, or displaced/disposal. Property inventory tags should be placed on equipment at the time it is received, although the equipment may not be placed in service until a later date.
- A physical inventory will be performed at least annually by the Inventory Officer. The inventory will be submitted to the Executive Director and/or their designee.
- The following is a listing of inventory procedures:

- Inventory listing should include all items with a unit acquisition (UAC) of \$500 or more and having a useable life of a year or more.
- Property inventory list will include, at a minimum, the following (the list may include other data):
 - Inventory tag number
 - Description and Brand Name
 - Serial number, model number or other identification
 - Location (Workforce Center, room number, etc.)
 - Who holds the title
 - Acquisition date
 - Unit Acquisition Cost (UAC)
 - Payment method
 - Vendor
 - Person assigned to (Optional)
 - Item use
 - Condition of property (excellent, good, poor)
 - Funding source
 - Include the FAIN if federal funds were used
 - Percentage of federal/state participation in cost of property
 - Disposal / Surplus (including date and, if sold, the sale price)
- Adequate measures should be in place to safeguard equipment, provide required maintenance, and security to prevent loss.
- Property insurance will be provided in an amount adequate to cover replacement costs.
- Any discrepancies in the inventory that cannot be reconciled must be reported to the Executive Director. If differences are due to a suspected theft, a police report will be filed within three to five business days of discovering the loss.

B. Transfer of Property

If the Board seeks to transfer property to another subrecipient, the transfer may be accomplished by changing the assignment of the property and obtaining written acknowledgement of the transfer from each party.

C. Disposition of Excess Non-Expendable Property

Board staff will ensure that non-expendable, inventoried property no longer required for program uses or other allowable uses is disposed of properly and in accordance with the following:

- A. Prior to disposing of excess property with a “fair market value of more than \$5,000:”
 - i. Using TWC Form 7300, the Board will provide the TWC Grant Manager with a written description of the property and obtain prior written approval from TWC to dispose of the property.
 - ii. The Board may then request TWC to authorize the Board to sell the property for fair market value and credit any proceeds to the program, or may determine an alternative use for such property. The Board will

proceed according to the disposition instructions received from the TWC Grant Manager.

- B. Excess property with a “fair market value of less than \$5,000” may be retained by the Board, sold or otherwise disposed of without any further compensation to the funding source and requires no further financial obligation to the agency. The Board is not required to request prior written approval to dispose of such property.
- C. Within 30 days of any such disposition of any property with a fair market value of more than \$5,000, the Board shall provide the TWC Grant Manager with TWC Form 7400 regarding the property disposition including a description of the property, the unit acquisition cost, the disposition date, the item’s serial number and the funding source. Upon submitting a report on the “Notification of Property Disposition” form, the Board shall be deemed to have complied with the disposition reporting requirement of this paragraph.

Note: Section XI.C updated with minor wording changes effective 4/1/21

D. Movement of Property

In the event that the Board or its subrecipients are responsible for arranging movement of property:

- 1. The entity will give careful attention to transportation costs, staff man-hours, fragility or susceptibility to damage of the particular property, warranty or leasing requirements, and other pertinent considerations prior to determining the mode of shipment.
- 2. If the property needs to be shipped to another subrecipient having need of such property, responsibility for arranging shipment rests with the requesting (receiving) entity.
- 3. When surplus property needs to be shipped to any warehouse storage, the Board assumes responsibility for arranging shipment.
- 4. The Board will give proper consideration to the safety of personnel and property when using the most cost-effective means available.

NOTE: Property insurance does not normally cover property in transit. Equally, common commercial shipper standard liability covers only a fraction of the value of property shipped unless additional coverage is specifically arranged. Thus, the Board may use special insurance to provide adequate coverage of property in transit.

XII. Procurement

A. General Policies

- 1. The Board shall adhere to the requirements of the TWC Financial Manual for Grants and Contracts, the federal Uniform Guidance (UG) and Texas Grant Management Standards (TxGMS) in procuring goods and services.
- 2. Prior to procuring goods or services, the Board shall review proposed procurements to determine need, avoid purchasing unnecessary or duplicative items, give consideration to consolidating or breaking out procurements to

obtain a more economical purchase, and conduct an analysis of lease and purchase alternatives, and any other appropriate analysis, to identify the most economical and practical purchase; and determine the most appropriate procurement method. {FMGC 14.20}

Need determination will vary in complexity and may be documented in a variety of ways. The extent of the analysis depends on the nature of the request. Simple, small purchases simply require concurrence from a person having purchase approval or procurement authority, while more complex and costly procurement may require more in-depth support. {FMGC 14.20}

While consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase, aggregate purchases shall not be divided in order to fall within the small purchase procurement threshold and avoid competitive bidding requirements. {FMGC 14.24}

3. The procurement of all goods and services shall be conducted, to the maximum extent practical, in a manner providing full and open competition consistent with applicable administrative requirements. {FMGC 14.14}
4. Per FMGC 14.14, practices that may eliminate or restrict full and open competition include, but are not limited to:
 - placing unreasonable requirements on firms in order for them to qualify to do business;
 - requiring unnecessary experience and excessive bonding;
 - noncompetitive pricing practices between firms or between affiliated companies;
 - noncompetitive awards to consultants that are on retainer contracts (or allowing entities that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals to compete for such procurements);
 - organizational conflicts of interest;
 - specifying a brand name product instead of allowing an equal product to be offered; and
 - any arbitrary action in the procurement process.

Unless otherwise required or encouraged by federal statute, procurements must be conducted in a manner that prohibits the use of in-state or local geographical preferences in the evaluation of bids or proposals; however, this does not preempt state licensing laws. Geographic location may be a selection criteria when contracting for architectural and engineering services as long as an appropriate number of qualified firms are able to compete for the contract. {FMGC 14.15}

Per requirements in 2 CFR Part 200.322, as appropriate and to the extent consistent with law, all subawards including all contracts and purchase orders for work or products should, to the greatest extent practicable provide a

preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

5. All necessary and affirmative steps shall be taken to contract with small and minority business firms and other historically underutilized businesses when possible. {FMGC 14.18}
6. All lists of prequalified entities that are used in procurement activities shall be current and include enough qualified sources to ensure maximum full and open competition. No bidder shall be precluded from qualifying for a prequalified list during solicitation periods. {FMGC 14.14}
7. The Board may use interlocal purchasing agreements to achieve greater efficiency and economy in the procurement of common goods and services. {FMGC 14.30}
8. The Board may procure goods and services through purchasing cooperatives/networks. TWC considers purchases made through a purchasing cooperative or purchasing network to satisfy the procurement requirements in UG, TxGMS, and FMGC Chapter 14 if any of the following are used {FMGC 14.29}:
 - Texas SmartBuy Membership Program (formerly State of Texas Cooperative (CO-OP) Purchasing Program)
 - Texas Multiple Award Schedule (TXMAS) Program
 - Texas Council on Competitive Government (CCG) State Term Contracts
 - Texas Department of Information Resources (DIR) State Term Contracts
9. Whenever cost effective and feasible, federal and state salvage and surplus property should be considered for purchase in lieu of purchasing new property. {FMGC 14.28}
10. Procurement records providing the historical detail of each procurement action shall be retained and made available to authorized entities and authorized representatives of those entities for a minimum of three years from the date that the audit report for that period is submitted to the TWC. {FMGC 14.46}
11. Protest procedures must be identified in the procurement document, when a sealed bid or request for proposal process is used to handle and resolve disputes relating to procurements. Per requirements in FMGC 14.73, protest information will be disclosed to the awarding agency.
12. An entity on the federal debarment list shall not be selected for an award. {FMGC 14.72}
13. Purchases require approval of the Executive Director or their designee in the form of approval of a purchase order, written authorization for credit card purchases, completion and approval of a Request for Purchase/Procurement Approval form or Board action.
14. For Sealed Bid and Competitive Proposal methods, the solicitation will include the date and time of the deadline for submissions. Responses

received after the deadline will not be opened, and the entity that submitted the late entry will be notified its submission was rejected due to being late. The Board may consider the late response if the reason for missing the deadline involves extenuating circumstances such as: technical malfunction, act of nature that could not be anticipated, unanticipated office closures, and postal service delays. If the reason for the missed deadline was due to a postal service delay, the proposer would have to provide written proof that they were guaranteed delivery no later than the deadline.

15. For Sealed Bid and Competitive Proposal methods, the criteria for responsiveness of the offers/proposals will be included in the solicitation. Bids/proposals will be evaluated against this criteria to determine responsiveness prior to the review and scoring of the submissions.

Note: Section XII.A. updated effective 8/1/20

Note: Section XII.A. updated effective 4/1/21

B. Conflict of Interest

(FMGC 14.11)

1. The Board shall ensure that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by federal or state funds if a real or apparent conflict of interest would be involved.
2. Individuals involved in the procurement of goods or services, the selection, award or administration processes are prohibited from the solicitation and/or acceptance of gratuities, favors or anything of monetary value by an officer, employee, or agent of any bidder or contractor.
3. Board staff and members shall be required to sign a conflict-of-interest statement that discloses any potential areas of conflict prior to the discussion or voting or determination of an award. Such statements shall be updated, in the event of a change that should be reported. This requirement also applies to Board subrecipients.
4. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, Invitations for Bids (IFBs), or Requests for Proposals (RFPs) will be excluded from competing for such procurements. {FMGC 14.14}

Note: Section XII.B. updated effective 8/1/20

C. Use of Lease vs. Purchase Options

(FMGC 14.21)

When appropriate, lease options may be considered in place of alternative purchase methods. Lease/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 agreements should be reviewed periodically to determine if circumstances have changed and other options are available. In determining the appropriateness of lease options, the following local policies shall also apply.

1. A determination shall be made if a lease appears to be the best use of program funds.

2. The Board shall compare the purchase price to the cost of leasing on an annual and/or monthly basis, given the expected useful life of the product being procured, to determine which method is most cost effective and the estimated fair market value of the item at the end of any resulting lease, and the maintenance of warranty costs.
3. Factors to include in making the determination shall also include forecasting growth, expansion, or organizational change that will affect the Board's need to replace, enhance, or modify the item being procured, including technological implications such as upgrades or specific capacity requirements.
4. Even if a lease is determined to be a more advantageous method, the general procurement requirements shall apply as stated in the general requirements.

Note: Section XII.C. updated effective 8/1/20

D. Selection and Types of Procurement Methods

Federal regulations in Uniform Guidance at 2 CFR Part 200.320 groups procurement types into three categories:

- Informal (micro-purchase, small purchase)
- Formal (sealed bids, proposals)
- Noncompetitive (sole source)

The following chart details the required approvals and required solicitation for the informal purchase threshold tiers. More detail about the three categories (and individual tiers within the categories) is provided in the sections that immediately follow.

Informal Procurement Types

Amount of Purchase	Required Approvals	Required Solicitation
Micro-Purchase: <=\$10,000 (only applies to supplies and services)	Board Executive Director or designee	Not required as long as the price is determined to be reasonable based on information such as research, experience, or prior purchases. Cost reasonableness must be determined no less often than annually. Use of the Request for Purchase/Procurement Approval form is required. Use of the Purchase Order is required unless payment is made via credit card, vendor invoice, or contract.

<p>Small Purchase:</p> <ol style="list-style-type: none"> 1. \$10,000.01 - \$250,000 for supplies and services 2. <=\$250,000 for equipment, intangible personal property (including insurance policies and software licenses), lease or rental of real property, and any other purchase that is not a supply or service 	<p>Board Executive Director or designee</p>	<p><u>Bids</u></p> <ul style="list-style-type: none"> o Minimum of 2 unless otherwise approved by Board ED o May be oral or written, but must be documented in writing on the Request for Purchase/Procurement Approval form o Selection may be based on price or price plus other factors o Purchase Order is required unless payment is made via credit card, invoice, or contract.
<p>>\$250,000</p>	<p>Vote of the Full Board</p>	<p>Must follow Sealed Bid, Competitive Proposal, or Noncompetitive Proposal procedures unless purchased through a verified cooperative purchasing contract</p>

1. Micro-Purchase

Threshold: \$10,000

[This Board](#) policy permits procurement by micro-purchase procedures for purchases of [supplies](#) and services, the aggregate cost of which will not exceed the [micro-purchase threshold](#). The restriction to supplies and services precludes use of micro-purchase procedures to acquire [equipment](#), [intangible personal property](#) (including insurance policies and software licenses), lease or rental of [real property](#), and any other purchase that is not a supply or service. However, purchases made with micro-purchase procedures should be equitably distributed among [qualified suppliers](#), to the maximum extent practicable.

Competitive quotations and price analysis are not required for purchase of supplies and services below the micro-purchase threshold amount outlined in TWC's FMGC in the aggregate. The Board will review purchases from individual vendors in the aggregate annually (period of review is the fiscal year – October through September) to determine whether purchases from such vendor meets the definition of a micro-purchase. The Board will adhere to the threshold amount updated in the FMGC at the time of purchase. The purchase must be reasonable, necessary, and allocable. Reasonableness will be evidenced by review and approval of the Board Executive Director or designee. Signature by either individual on the Purchase Order form or Request for Purchase/Procurement Approval form indicates approval of purchase and reasonableness of price based on the individual's research, experience, prior

purchases, etc. A determination of reasonableness of cost for repeat purchases of the same or similar products/services must be performed at least annually, however there is no expectation to make such determination more often than annually. Records of price comparisons may be kept on file to support price reasonableness, but such records are not required. Additionally, instances may arise in which the supplier selected to provide an item is out of stock of the selected item when the actual purchase need arises. The Board will use the next lowest priced supplier from its comparison.

The Request for Purchase/Procurement Approval form is required for purchases at the micro-purchase threshold. A Purchase Order is also required unless payment is being made via credit card, invoice, or contract.

2. Small Purchase {FMGC 14.32}

Threshold: \$250,000

Procedures for small purchases (open market purchases), also known as simplified acquisitions, involve simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property that do not exceed the small purchase threshold in the aggregate.

When using the small purchase method, staff shall ensure that price or rate quotations are obtained from an adequate number of qualified sources (as defined in letter a., below). (Note: The terms “bids”, “quotes”, and “solicitations” are used interchangeably.)

For anticipated recurring purchases of items or services, aggregate cost for such purchases will be presumed to be the length of the contract under which the purchases were made. {FMGC 14.23}

Board staff will ensure the following.

- a. Bids should be obtained from at least two sources. However, bids may be solicited from a single source, if the Board Executive Director or their designee determines that only one source is reasonably available.
- b. Solicitations may be oral or written, but offers must be documented in writing with sufficient detail to determine the source of bid, amount, quantity, etc.
- c. The solicitation may include options for renewal or extension as long as the cost of the options does not exceed the small purchase threshold in the aggregate.
- d. All offers/responses shall be considered and evaluated in a fair and impartial manner.
- e. Documentation of the bid and award process is maintained in accordance with recordkeeping provisions, as outlined in FMGC Appendix K.
- f. Unsuccessful bidders shall be notified of the award decision, if they request such information.
- g. The selection decision may be based on price alone (lowest price) or may involve consideration of price and other factors (best value), such as

performance and quality. If information other than cost/price is used in making the determination, documentation of such factors shall be noted and included in the procurement file.

When transacting a small purchase, the basis for placing the order with the successful bidder and the factors considered in determining the lowest and best bid must be documented by the procuring staff member and filed with all other documentation related to the transaction.

- h. Staff shall complete the Request for Purchase/Procurement Approval form and submit it, along with any required documentation, for approval by the Executive Director or designee prior to issuance of a purchase order
 - i. A purchase order system* will be used to:
 - Establish a record of purchase negotiated on the behalf of the Board.
 - Provide duplicate records for use in payment of invoices and/or billings for services rendered and in documentation of allowability of related costs.
 - Assure that unnecessary or duplicate items are not purchased.
- *Note: Use of purchase orders is not required if payment is made by credit card, vendor invoice, or contract. Purchase orders are used when required by a vendor or when there is a need to create a record of purchase/payment.
- j. A purchase order, invoice, or contract will be required on negotiated purchases for the procurement of services, supplies, or other property costing not more than the small purchase threshold in the aggregate.
 - The Board Executive Director or designee has authority to approve purchase orders not to exceed the small purchase threshold without prior Board approval.
 - k. Negotiated procurements which occur within the small purchase method guidelines will be accomplished through a Request for Purchase/Procurement Approval form and will include:
 - A description of supplies or services to be purchased
 - The date needed
 - At least two comparative price quotations
 - An authorizing signature.
 - l. Public exigency or emergency purchases may be made to meet any unforeseen critical need of the Board; if the Board's ability to serve the public would be impaired should the purchase be delayed. Emergency purchases are exempt from standard purchasing procedures, but do require the approval of the Executive Director or designee.
 - m. Proper vendor information is obtained at the time of purchase, including but not limited to, current W9s.

3. Formal--Sealed Bid {FMGC 14.33; CFR 200.320(b)(1)}

The sealed bid and competitive proposal methods of procurement are appropriate when purchasing goods or services for which the aggregate cost exceeds the simplified acquisition threshold.

The sealed bid method, which is also known as formal advertising, is only feasible when the following conditions exist:

- a complete, adequate, and realistic specification or purchase description is available;
- two or more responsible bidders are willing and able to compete effectively;
- price is the primary basis for selecting the successful bidder; and
- a firm fixed price contract will be awarded.

Sealed bid procurements must be conducted in accordance with the following federal requirements:

- the Invitation for Bid (IFB) must be publicly advertised;
 - bids must be solicited from an adequate number of known suppliers;
 - bidders must be allowed sufficient time to submit a bid;
 - the IFB must include all information needed by the bidder to submit a responsive bid;
 - all bids must be publicly opened at the time and place specified in the IFB;
 - bid tabulation will occur at the time of bid opening whenever practical (if not practical to do so at the time of bid opening, the reason will be noted in the procurement record, and the tabulation will occur as soon thereafter as practicable);
 - a firm fixed-price contract must be made in writing to the lowest responsive and responsible bidder;
 - when specified in bidding documents, discounts, transportation costs, and life cycle costs must be considered in determining the lowest bid (although payment discounts may only be used if the Board takes advantage of them); and
 - the Board may reject any or all bids when a sound documented reason exists.
- a. Generally, the time allotted for response to a sealed bid should be a minimum of 30 days; however, the Board Executive Director may waive this requirement when it is determined that an adequate number of responsive bidders are available and capable of responding in a shorter timeframe without unnecessarily bidding higher prices, as per 48 CFR §14.202-1.
- b. When a sealed bid is used, the Board may allow the use of electronic submissions for all or a portion of the information. In the event that electronic submission is allowed, the Board shall provide an electronic notification to the bidder to document the time and date of receipt of the bid. In the event the information is received in a format that is not readable or is incompatible with Board technology systems, the Board shall immediately notify the bidder that the bid will be rejected unless the bidder provides clear and convincing evidence--
- i. Of the content of the bid as originally submitted; and
 - ii. That the unreadable condition of the bid was caused by Board software or hardware error, malfunction, or other Board mishandling.
{48 CFR §14.406}

- c. Bids that are received in hard copy shall be stamped to note the date and time of receipt. The Board is not liable for late submissions due to mail or delivery issues and will only consider submissions received after the published deadline in the following circumstances. {48 CFR §14.304}
 - i. The submission is received before award is made;
 - ii. The Board determines that accepting the late bid will not unduly delay the award; and
 - iii. There is acceptable evidence to establish the bid was received by the Board office and was under the Board's control prior to the time set for receipt of bids. 'Acceptable evidence' includes the date/time stamp on the bid wrapper, other documentary evidence of receipt maintained by the Board, or oral statements or testimony of Board personnel.

The Board will notify any bidder if its bid, modification, or withdrawal was received late and will inform the bidder whether its bid will be considered.

- d. Bids envelopes shall not be opened until the stated opening time, unless the envelope has inadequate information to identify the bidder and needs to be opened for identification purposes. The Board shall only review information to make such a determination, but not to evaluate the bid. {48 CFR §14.401}
- e. Staff shall ensure that sealed bid envelopes remain in a secure location until the time of opening. If a sealed bid is opened by mistake (e.g., because it is not marked as being a bid), the envelope shall be signed by the opener, whose position shall also be written thereon, and delivered to the designated official. This official shall immediately write on the envelope (1) an explanation of the opening, (2) the date and time opened, and (3) the invitation for bids number, and shall sign the envelope. The official shall then immediately reseal the envelope." {48 CFR §14.401}
- f. The Board may elect to use a bidder's conference as part of the process; however, such events shall not substitute for amendments to the bid.
- g. In the event the Board elects to amend the bid, all bidders notified of the bid shall receive the notification of amendment in a timely manner. The Board may elect to extend the deadline for submission, in the event of an amendment and such information shall be included with the amendment notification sent to bidders. The Board may post information about amendments on their website as a form of notification to all bidders.
- h. Since the cancellation of an invitation for bids usually involves a loss of time, effort, and money spent by the Board and bidders, a cancellation will only be issued when it is in the public interest; e.g., (1) where there is no longer a requirement for the services or supplies, or (2) where amendments to the invitation would be of such a magnitude that a new invitation is desirable. When a bid request is cancelled, any bids already received will be returned unopened. {48 CFR §§14.408-1; 48 CFR §14.209}
- i. In situations where the bids received do not conform to the invitation, do not appear to be advantageous to the Board, or do not meet price or price-

related standards, the Board may also extend the submission deadline to allow for submission of more responses, as long as all bidders are notified of the extended deadline. {48 CFR §§14.408-1; 48 CFR §14.209}

- j. Bidders shall be notified of the time and place of the bid opening and may elect to attend the bid opening. At the time of bid opening, the name of the bidder and price information shall be announced and recorded. Bidders, who elect not to attend or are unable to attend the bid opening, shall be notified of the final award decision. Bidders may request and receive information regarding the bid opening records prior to the award of a bid.
 - k. If additional factors related to cost/price are part of the award consideration, the Board shall inform bidders that no award decision shall be made until all bids are evaluated to determine compliance with other requirements and that no assumption shall be made about the award of the bid based solely on the stated cost/price information recorded at the time of bid opening. The Board shall clearly identify the factors that will be used to evaluate bids in advance, so bidders are aware of the basis of review and evaluation. {48 CFR §§14.408-1}
 - l. If the Board believes information submitted in a bid is in error, and the bid otherwise meets the requirements of the invitation, the Board, will contact the bidder to request clarification if the following conditions are met.
 - The award has not been made.
 - The time required to obtain a clarification is not precluded by an urgent need to make an award.
 - The error is apparent on its face in the bid (e.g., obvious misplacement of decimal points, obviously incorrect discounts, obvious mistake in designation of units).
 - The bid actually intended varies substantially from the invitation and the bid itself.
 - There are other circumstances that require additional clarification, as required by the Board.{48 CFR §§14.407-1, 14.407-2, 14.407-3, 14.407-4}
4. Formal--Competitive Proposal {(FMGC 14.34); (2 CFR 200.320(c))}
- The competitive proposal method is normally used when two or more responsible bidders are willing and able to compete effectively for the business and the procurement lends itself to a fixed-price or cost-reimbursement contract or subaward. The competitive proposal method is generally used when conditions are not appropriate for the sealed bid method. A request for proposal (RFP) that delineates the requested services, parameters and evaluation criteria is used to solicit responses.

Competitive proposal procurements will comply with the following federal requirements:

- The request for proposals (RFPs) will be publicized and will identify all evaluation factors and their relative importance.

- Responses to publicized RFPs will be honored to the maximum extent practical; unless the response fails to meet the minimum prescribed requirements;
- RFPs must be solicited from an adequate number (usually two or more) of qualified sources;
- A method for conducting technical evaluations of the proposals received and for selecting awardees must be identified and followed;
- Awards must be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- A competitive proposal process may be used for a qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

The following specific items shall be considered when using the competitive proposal method:

- a. Best value: The Board may use varied weights on the same factors for each competitive procurement, if it provides a better value for the Board. The Board may also use a combination of approaches, including competitive proposals and negotiation to obtain the best value.
- b. Information exchange: The Board may engage in information exchange about the proposal with proposers at any time during the procurement process to ensure understanding of the requested services. Once the RFP is released, however, any discussions or information exchange should be limited to the proposer and the Board's authorized contact(s). General information about the Board's mission, vision, etc. that may be generally available to the public from the Board or other sources is not considered information related to the procurement. Information exchange specifically related to the proposal that may provide additional information or a potential advantage to a bidder must either be shared with all bidders as soon as practically feasible or must not occur.
- c. Pre-solicitation notice: The Board may publish a pre-solicitation notice that invites potential competitors to submit information that allows the Board to determine if there are an adequate number of competitive bidders. The notice should provide sufficient information to allow a potential bidder to make an informed decision about whether they are capable and interested in submitting a proposal as well as the basis of evaluation by the Board. The Board may require potential bidders to submit basic information such as past performance, technical capability, proposed service model and limited or estimated price/cost information. The pre-solicitation may not require a bidder to submit the same information more than once as part of a two-step process to solicit bids.

- d. Each RFP, at a minimum, must include the following:
- i. Description of requested service(s);
 - ii. Anticipated contract terms and conditions;
 - iii. Information that must be included in proposal;
 - iv. Factors used to evaluate the proposal, and their relative importance;
 - v. Allowable submission methods and submission requirements (see Section A, #14 regarding responsiveness criteria);
 - vi. Contact information for Board to request clarification;
 - vii. Type of anticipated contract;
 - viii. Proposal due date and time; and
 - ix. Any other information relevant to the solicitation.
- e. Generally, the time allotted for response to a competitive proposal should be a minimum of 30 days; however, the Board Executive Director may waive this requirement when it is determined that an adequate number of responsive bidders are available and capable of responding in a shorter timeframe. Depending on the complexity of the requested services, the response time should be adjusted to allow adequate time for response. For example, more than 30 days should be allotted for responding to RFPs to provide workforce center services. {LOP}

For competitive proposal procedures related to contingency issues, see the embedded document below.



Contingency Plan to
Ensure Continuation c

- f. When a competitive proposal is used, the Board may allow the use of electronic submissions for all or a portion of the information. In the event that electronic submission is allowed, the Board shall provide an electronic notification to the bidder to document the time and date of receipt of the bid. In the event the information is received in a format that is not readable or is incompatible with Board technology systems, the Board shall immediately notify the bidder that the bid will be rejected unless the bidder provides clear and convincing evidence—
- i. Of the content of the bid as originally submitted; and
 - ii. That the unreadable condition of the bid was caused by Board software or hardware error, malfunction, or other Board mishandling.
- {48 CFR §15.207, 48 CFR §15.208}
- g. In the event the Board elects to amend the bid, all bidders notified of the bid shall receive the notification of amendment in a timely manner. The Board may elect to extend the deadline for submission, in the event of an amendment and such information shall be included with the amendment notification sent to bidders.

- h. Bids that are received in hard copy shall be stamped to note the date and time of receipt. The Board is not liable for late submissions due to mail or delivery issues and may at their sole discretion consider or dismiss submissions that are received after the published deadline (see Section A, #13 for additional information).
- i. The Board may elect to use a bidder's conference as part of the process; however, such events shall not substitute for amendments to the bid.
- j. The bid review process should not begin until all bids are received; however, in the event of an emergency or shortened timeframe procurement, the Board Executive Director or their designee may allow the review process to begin as proposals are received. As bids are received, proposals shall be stored in a secure location to ensure there is no tampering or access by unauthorized individuals. {LOP}
- k. The Board may request bidders to provide an oral presentation or address questions regarding their bid after all bids have been received, as part of the review process. Information regarding this potential oral presentation should be included in the RFP document along with an estimated timeframe as to when such presentations would likely be requested.
- l. At a minimum, the RFP must identify the relative weight of each evaluation factor and the following factors must be included:
 - i. Price or cost;
 - ii. Past performance;
 - iii. Historically underutilized business status;
 - iv. Quality; and
 - v. Subrecipient opportunities.
- m. If the Board receives an inadequate number of responses to the bid request, the Board may elect to cancel the bid opening. The Board may also extend the submission deadline to allow for submission of more responses, as long as all bidders are notified of the extended deadline. Notification may be made to bidders via a posting on the Board's website. If, following the bid extension, an adequate number of responses has still not been received, the Board may elect to cancel the bid opening.
- n. The proposal evaluation process must be documented and should be conducted in a manner that assures that it is free from bias and is in accordance with the published evaluation criteria.
- o. The Board may consider that cost and/or pricing is fair and reasonable, if there are an adequate number of proposals received from responsible sources or if pricing/cost information is available from another reliable source or the Board has historical information that establishes the cost/price as within reasonable limits for the same or similar products or services.
- p. The Board may choose to allow the use of sub-subrecipients, but does not have to accept the use of sub-subrecipients. In the event that subcontractors are included in a bid submission, the Board may evaluate the subcontractor in the same manner and with the same criteria used to evaluate the lead entity submitting the proposal. {LOP}

- q. The Board shall limit profit in any proposal to 10% and may reduce the amount of profit or eliminate profit as an option. {FMGC 14.67}
 - r. The Board may elect to reject all proposals and publish another solicitation.
 - s. Within three (3) business days after the date of award, the Board shall provide written notification to each bidder who was not selected for award and who did not receive a pre-award notification of being eliminated from the competition. The notice shall include:
 - i. The number of proposals received;
 - ii. The name and address of each bidder receiving an award;
 - iii. The items, quantities, and stated unit prices of each award, unless the number of items or other factors make that impracticable, in which case only the total award price need be furnished in the notice; and
 - iv. In general terms, the reason the bidder's proposal was not accepted, unless the price information in section XII.C.4.s.iv. above readily reveals the reason. {48 CFR §15.503}
 - t. Upon selection of a bidder or announcement of an award, the Board may enter into negotiations, if necessary, with the selected bidder. Such negotiations shall be documented and any changes resulting from the negotiations may be documented in the form of a revised proposal or in the contract document.
 - u. In the event negotiations are unsuccessful, the Board may choose to enter into negotiations with other bidders without regard to their rank, unless a decision has been made to specifically negotiate with bidders based on their ranking as determined through the evaluation process. {LOP}
 - v. Unsuccessful bidders may request a debriefing with the Board. Procedures for the debriefing shall be included in the RFP document. The Board may limit a proposer's right to file a complaint after a debriefing is provided. {LOP}
5. Noncompetitive Proposals—Sole Source {FMGC 14.35}
- The Board may accept unsolicited (sole source) proposals that are innovative or demonstrate a unique method, concept or approach. If the proposal receives a favorable evaluation and does not infringe on pending procurements or violate other local, state or federal requirements, the Board may consider the proposal for funding. {LOP}

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined to be inadequate. Cost analysis, which includes verification of the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

When a competitive procurement process is used, and the Board has reason to believe that more than one bid will be submitted, but only one responsive bid is received, the requirement for pre-approval does not apply. In these instances, the Board will review its solicitation to determine that its efforts to

promote competition were adequate. The Board may also contact one or more known sources to ask why they did not respond, but is not required to do so. The Board will document any efforts and decisions made in a note in the procurement file. {FMGC 14.35}

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals, and one of the following circumstances applies:

- the acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;
- the item is available only from a single source;
- public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
- the awarding agency authorized noncompetitive proposals; or
- after solicitation of a number of sources, competition is determined inadequate.

If the Board lets a contract due to public exigency or emergencies, advance permission from the Texas Workforce Commission is not required; however, the Board is aware that appropriate procedures must be followed to maximize full and open competition and to use appropriate procurement methods.

6. Program-Related Services {FMGC 14.25}

Subawards for the purchase of program-related services must comply with the U.S. Constitution, Federal Law, and the requirements of the Financial Manual for Grants and Contracts (FMGC) Contracts chapter.

Subawards resulting from procurements for program-related services shall include:

- i. clearly defined goals, outputs, and measurable outcomes which directly relate to program objectives;
- ii. clearly defined sanctions or penalties for noncompliance with subaward terms and conditions;
- iii. accounting, reporting, and auditing requirements applicable to funds received under the subaward;
- iv. a requirement for the subrecipient to implement a formal program using a risk assessment methodology to monitor compliance with financial and performance requirements under the subaward, including a determination of whether performance objectives have been achieved; and
- v. a requirement for the subrecipient to implement a formal program to obtain and evaluate program costs information to ensure that all costs, including administrative costs, are reasonable to achieve program objectives.

7. Professional and Consulting Services {FMGC 14.37}

Professional services, including auditors and consulting services, must be selected and awarded in accordance with applicable administrative requirements as set forth in the TWC FMGC.

Professional Services. {FMGC 14.37} Award and selection of professional services shall not be based upon competitive bids. Award and selection will be based upon:

- a. the basis of demonstrated competence and qualifications to perform the services; and
- b. a fair and reasonable price.

Fees must be consistent with, and may not exceed, the recommended practices and fees published by the applicable professional associations. Additionally, the fees may not exceed any maximum provided by law.

Architectural, Engineering, or Land Surveying. {FMGC 14.37, 14.38} In procuring architectural, engineering, or land surveying services, The Board will:

- a. first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- b. then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the Board will:

- a. formally end negotiations with that provider;
- b. select the next most highly qualified provider; and
- c. attempt to negotiate a contract with that provider at a fair and reasonable price.

The Board may continue the process described above to select and negotiate with providers until a contract is entered into, but not to the extent that a contract with an unqualified firm or individual would result.

Audit Services. {FMGC 14.37, 14.39} In procuring an auditor, positive efforts must be made to use small businesses, minority-owned firms, and women's business enterprises. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. 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 external quality control reviews, and price.

As provided by single audit requirements, an auditor who prepares the indirect cost proposal or cost allocation plan must not also be selected to perform the audit required by [2 C.F.R. § 200.512](#) and/or the State of Texas Single Audit Circular (in Part IV of the Uniform Grant Management Standards) when the

indirect costs recovered by the auditee during the prior year exceeded \$1 million.

Consulting Services. {FMGC 14.37, 14.44} The Board may contract with a consultant only if 1) there is a substantial need for the consulting service, and 2) the Board cannot adequately perform the services with its own personnel or obtain the consulting services through a contract with a state governmental entity.

Selection will be based on demonstrated competence, knowledge, qualifications, and on the reasonableness of the proposed fee for the services. If other considerations are equal, preference must be given to a consultant whose principle place of business is in the state, or who will manage the consulting contract wholly from an office in the state.

A consulting contract, including renewals, amendments, and extensions, may not be divided into more than one contract to avoid procurement requirements. Consulting services do not fall within the definition of a professional services procurement and must be competitively procured.

Other Specialized Services. {LOP}

In the event the Board determines a need for any of the following functions that cannot be performed with its own personnel, outside entities will be contracted to provide these services.

- [Professional development training services for employees](#)
- [Grant compliance monitoring services](#)
- [Technical assistance associated with implementation of information technology](#)
- Other specialized services not otherwise listed here (and that do not fall within the definition of other types of professional services)

Other specialized services will be acquired using the procurement method that is most appropriate for the nature and cost of the service. When evaluating responses to a solicitation for specialized services, the Board will consider factors such as:

- Demonstrated competence
- Knowledge
- Qualifications
- Reasonableness of the proposed fee for the services

8. Training Providers {FMGC 14.43}

Training providers for Workforce Innovation and Opportunity Act (WIOA) Adult, Youth, and Dislocated Worker training services shall not be procured, but shall be certified through the Agency's Eligible Training Provider Certification System and selected for training from the resulting Eligible Training Providers List.

Training providers for WIOA Adult, Youth, and Dislocated Workers training services are not required to be competitively procured. Instead, such providers must complete a certification process and be approved for inclusion on the Eligible Training Providers List (ETPL) (also sometimes referred to as the Statewide List of Certified Training Providers) through the Eligible Training Provider Certification System (ETPS) (also sometimes referred to as TPCS). WIOA Adults, Youth, and Dislocated Workers that are eligible for training may only select training services from the ETPL. See section XVIII for more information on the Board's ETP policy.

9. The Board has established requirements for subrecipients in WB 17-04 that may vary from these requirements.

Note: Section XII.D. updated effective 8/1/20

Note: Section XII.D. updated effective 4/1/21

E. Debriefings and Appeals

(FMGC 14.73)

Each written Board solicitation will provide bidders with the Board's appeal process, as well as contact information that includes a physical address, email address, and fax number.

1. Appeals

Proposers/bidders who wish to appeal a decision must use the following process:

- a. Upon receipt of status notice, proposers must inform the Board, in writing, within fifteen (15) days of the date of notification, of their appeal. Appellants must include the following information in their appeal correspondence.
 - i. Identify the solicitation being protested
 - ii. State the grounds for the protest, including a description of any alleged acts or omissions by the entity that forms the basis for the protest
 - iii. Provide any written information that the protestor believes is relevant to the grant award
 - iv. Provide the basis for the protestor's interest in the award
 - v. Provide desired remedies, if any
- b. The Board Executive Director/designee will review the appeal and issue a determination within fifteen (15) days of receipt of the appeal. This decision will be final.

2. Debriefing

Proposers who are not selected for contract award may request a debriefing for purposes of learning more about the evaluation of their proposal. **A proposer may not request a debriefing and appeal the Board's decision.** The request for a debriefing must be provided in writing to the Board no later than 30 days after notification of award. Upon receipt of a request for a

debriefing, the Board shall contact the proposer and set a mutually agreeable date and time to conduct the debriefing. The debriefing may be held in person, but may also be conducted via telephone.

Note: Section XII.E. updated effective 8/1/20

F. Charging Costs for Promotional Activities



WSWCTB Charging
Cost for Promotions

XIII. Contracting Standards

(FMGC Chapter 15)

The Board follows the guidelines established by Supreme Court rulings that four essential elements must exist in every contract:

- **Manifestation of mutual assent:** The parties to a contract must manifest by words or conduct that they have agreed to enter into a contract. The usual method of showing mutual assent is by offer and acceptance.
- **Consideration:** Each party to a contract must intentionally exchange a legal benefit or incur a legal detriment as an inducement to the other party to make a return or exchange.
- **Legality of Object:** The purpose of a contract must not be criminal, or otherwise against public policy.
- **Capacity of the parties—the parties to a contract must have contractual capacity.** Certain persons such as adjudicated incompetents have no legal capacity to a contract, while others, such as minors, incompetent persons, and intoxicated persons, have limited capacity to a contract. All others have full contraction capacity.

A. General Provisions

{LOP}

For purposes of this section, the term “contract” is applicable to contracts with vendors and agreements or subawards to subrecipients. Contracts/subawards shall be developed in accordance with the requirements of the TWC FMGC, the U.S. Constitution, federal and state statutes and any other locally-established requirements.

The contract/subaward document shall be considered legally binding by both parties and shall be developed in a manner that ensures the interests of the Board are protected to the maximum extent possible.

Contracts/subawards shall be developed in a timely manner after the award decision is announced, negotiations are completed and, to the extent possible, prior to the inception of contract activities. If both parties are agreeable, contract/subaward activities may be initiated prior to the finalization of the

contract/subaward document with the understanding that the terms of the will be effective and applicable at the time activities are initiated, regardless of the status of the contract/subaward document.

Note: Section XIII.A updated with minor wording changes effective 4/1/21

B. Contract Types (FMGC 15.1)

The Board shall determine the appropriate type of contract to use based on: 1) the degree and timing of responsibility assumed by the contractor/subrecipient for costs, and 2) the amount and nature of the profit incentive offered for achieving or exceeding specified standards or goals (if applicable). Contract types typically used by the Board may include: cost reimbursement, fixed price (both performance and non-performance based) and fixed unit price.

The Board shall follow the guidelines established in the TWC FMGC related to various contract types. The definitions and general principles for each contract type below will be used in identifying the appropriate type of contract.

Cost Reimbursement Contracts. A cost reimbursement contract is used when the Board compensates the contractor for performing at a certain level of effort regardless of the level of output achieved. Since compensation is made on a level of effort basis, payments are earned based on actual allowable costs incurred and reported by the contractor (up to a negotiated ceiling; i.e., budget). Types of cost reimbursement contracts include: cost contracts, cost sharing contracts, and cost-plus-incentive fee contracts. Cost reimbursement contracts must be used with units of state and local government or for services with administrative entities. In general, a cost reimbursement contract is used:

- when the work desired cannot be precisely detailed as to permit the expectation of a common understanding of results; or
- where it might be considered unwise to attempt to characterize or prescribe details of an outcome (such as research and development tasks or work experience programs).

A cost reimbursement contract must identify the number of participants covered by the agreement, if applicable; and include a line-item budget showing the planned costs by cost category. In satisfying the budget requirement, the resources (i.e. personnel, space, travel, etc.) needed to undertake the work are to be listed, priced, and allocated among applicable cost categories. The contract may include the line item budget that was submitted in the selected proposal or bid by reference to that proposal or bid, if it was not changed by contract negotiations. However, if changes were negotiated from the budget that was in the proposal or bid, the budget should be revised to reflect the changes and should be included in the contract.

Where cost reimbursement contracts are used, the contractor's accounting system must be adequate for determining costs applicable to the contract. A cost

reimbursement contract is not suitable for the purchase of commercial items. Contracts for workforce program services may also be referred to a subawards.

Fixed Price. Under a fixed price contract, the price of the contract is not subject to change as a result of a difference between the contractor's planned and actual costs. Responsibility for costs and the resulting profit or loss is the full responsibility of the contractor. A fixed price contract may be used in conjunction with an award-fee incentive and performance or delivery incentives when the award fee or incentive is based solely on factors other than cost. A fixed price contract is suitable for the purchase of commercial items.

Two types of fixed price contracts that are commonly used in the provision of workforce related services are fixed unit price non-performance based contracts and fixed unit price performance based contracts. These types of contracts are described further below.

Fixed Unit Price Non-Performance Based Contracts. These contracts are used when the output can be clearly defined, such as the completion of an educational or training course. Fixed unit price non-performance based contracts are typically used for services such as training, tuition, certain supportive services and similar transactions or services.

If a fixed unit price non-performance contract is used, the Board will ensure that the following elements are included in the contract:

- the contract must relate to the goals and target groups developed by the Board;
- the reasonableness of cost/price standards applied to the contract must be in terms of other contracts let, the local market, and contract specifications;
- a line item budget must be included if the price is not based on standard fees published in a catalog;
- if the contractor is a governmental entity, educational institution or nonprofit entity, the contract must include language on program income which is sufficiently clear and procedurally adequate to communicate the contractor's responsibilities in relation to program income; and
- if the contract authorizes interim payments, cost data must establish that payments do not exceed the cost incurred to date.

Fixed unit price non-performance based contracts may be used for:

- individual referrals,
- purchases of merchandise, including training software packages,
- child care services,
- insurance services,
- equipment maintenance,
- leases, and
- assessment services.

Fixed Unit Price Performance Based Contracts. These contracts require the contractor to successfully meet measurable performance standards or provide specified deliverables. Unless there is satisfactory delivery of the predetermined outcome or result (i.e. performance of a deliverable), compensation is not earned. Such contracts will also contain a description of the nature of the work and results to be obtained in sufficient details to evaluate performance and determine that objectives have been achieved in a reasonable and timely manner.

The Board requires that the price valuation must be reasonable, and that the contract costs must be allocated across applicable cost categories when the contractor bills or reports expenditures to the Board. The Board also requires that all services purchased under fixed unit price, performance based contracts, including education and/or training services must require documentation of measurable achievements or completed deliverables before payments are made. The requirement for verification of delivery must be stated clearly and consistently within the contract's other sections. In addition to the requirements above, fixed unit price, performance based contracts for education and/or training services must also meet the requirements established by the TWC FMGC.

C. Contract/Subaward Elements

(FMGC 15.2, 15.3)

Contracts/subawards will contain essential elements in sufficient detail for both parties to understand the terms of the agreement. A review shall be conducted of each contract/subaward in advance to determine that the required elements are included.

The following elements will be included in all contracts/subawards:

1. Signature or Cover Page All contracts/subawards, including modifications, must be written and properly signed by authorized representatives of the contracting parties. At a minimum, the signature or cover page must include the following elements:
 - a purpose statement;
 - names, titles and addresses of the responsible parties to the contract/subaward;
 - beginning and ending dates for the contract/subaward;
 - type of contract (i.e. cost reimbursement or fixed unit price);
 - total obligated dollar amount of the contract/subaward;
 - funding source(s);
 - federal ID number; and
 - signatures and date blocks, including typed names and titles.
2. Definition of Key Terms. This section must define terms, conditions, acronyms and terminology used throughout the contract/subaward. These terms may be general or specific to the funding agency or award.

3. Statement of Work or Deliverables. Each contract/subaward must contain an adequate narrative description of the quantity and quality of work to be performed or goods to be received under the contract/subaward. This clause may refer to a negotiated statement of work or deliverables, based on the selected proposal or bid. At a minimum, the statement of work or deliverables must contain the following, as applicable:
- a specific description of services or goods to be provided, the dates the contracted work is to begin and end, start and ending date of merchandise delivery, start-up and closeout dates;
 - key elements of service package (services only), for example, assessment, case management, counseling, placement, frequency of client contact, follow-up, etc;
 - length of service activities (services only), for example, curriculum must include subject areas and number of hours/weeks of attendance, and defined number and dates of each training/education cycle;
 - expected outcome(s) and description of how the outcome will be measured and documented;
 - list of barriers (training and education services only) to be addressed, participant selection criteria, and methods of removing barriers, if applicable;
 - expenditure schedule;
 - requirement to maintain records of participant information; and
 - performance standards defining the minimum levels of performance according to the type of contract. Such minimum performance levels must be quantifiable and stated in unambiguous terms.
4. Payment Provisions. This section must outline when and how payments will be made to the contractor/subrecipient based on satisfactory program implementation or delivery of items/goods. These provisions must include, at a minimum, the:
- maximum amount payable;
 - methods of payment and/or payment schedule;
 - definition of the types of payments and invoicing procedures, such as format and due dates according to the type of contract;
 - provisions for advancing of funds, if relevant; and
 - liquidation of advances and recovery in the event of nonperformance.
5. Compliance with Laws and Regulations. The contract/subaward must include clauses or statements that require compliance with the U.S. Constitution and applicable laws and regulations. The contract/subaward should outline the conditions and manner under which the contract/subaward may be terminated and the basis for settlement. The following provisions and assurances must be included in all contracts/subawards as applicable:
- Termination in whole or in part for any of the following reasons (per 2 CFR 200.340(a));

- Failure of the contractor/subrecipient to comply with the terms and conditions of the contract;
 - In the event the contract/subaward no longer effectuates Board or TWC goals/priorities;
 - By mutual consent between the Board and the contractor/subrecipient;
 - Upon written notification by the contractor/subrecipient to the Board, pursuant to 2 CFR 200.340(a)(4)
 - By the Board pursuant to termination provisions contained in the contract/subaward
- Methods and/or process for changes/modifications;
 - Access to records;
 - Record retention requirements;
 - Provision against assignment;
 - Disposition and treatment of program income;
 - Process for addressing and resolving disputes and/or claims;
 - Prohibition against duplicate funding;
 - Allowable circumstances and requirements for subcontracting;
 - Conflict-of-interest provisions and requirements;
 - Reporting requirements;
 - Subrecipient rights related to patent, copyrights and rights in data;
 - Debarment and suspension certifications;
 - Drug-free workplace certification;
 - Anti-lobbying;
 - Audit rights and requirements;
 - Equal opportunity employment
 - Copeland Anti-Kickback Act;
 - Contract Work Hours and Safety Standards Act;
 - Davis-Bacon Act;
 - Child Support;
 - Child Abuse;
 - Federal statutes relating to nondiscrimination;
 - Minimum wage and maximum hour requirements of the Federal Fair Labor Standards Act;
 - Nepotism
 - Open meetings act (as applicable to governmental bodies or other required entities);
 - Subaward administration system requirements contained in the application or included in the subrecipient's response;
 - Hatch Political Activity Act (5 U.S.C. §7321 -29);
 - Environmental Standards;
 - Flood Disaster Protection Act of 1973 (Public Law 93-234);
 - Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq);
 - Pro-Children Act of 1994 (Public Law 103-277);
 - HIV/AIDS Work Place Guidelines;

- Tax laws;
- Compliance with applicable laws and regulations; and
- Energy Policy and Conservation Act.

Note: Section XIII.C updated effective 4/1/21

D. Contract/Subaward Changes and Modifications

(LOP)

The following requirements apply specifically to contract/subaward changes and modifications:

1. All contract/subaward changes and modifications must be within the “general scope” of the original contract/subaward for goods and services. These modifications may occur because of financial re-obligations or de-obligations, extensions, adjustments or required or elective changes by a governmental entity, other oversight body or the Board.
2. Modifications to contracts/subawards must be in writing using the appropriate modification form and will become a part of the original contract/subaward.
3. All modifications must be executed by the Board’s Executive Director or designee and the subrecipient’s authorized representative, except for unilateral modifications, which do not require authorization by the subrecipients representative.
4. With the agreement of both parties, modifications may be executed at any time during the contract/subaward period.
5. Unilateral amendments do not require the subrecipient’s agreement.
6. The subrecipient may request a change/modification to the contract/subaward. The Board may accept, modify or reject the request; however, the subrecipient is required to continue to abide by the current contract/subaward terms until the effective date of any contract/subaward amendment. The following procedures shall be followed when requesting an amendment for any Board contract/subaward:
 - a) Requestor will complete the Budget Contract/Subaward Amendment Request form (WB 21-06, Attachment 1) ensuring to thoroughly describe the requested change to the contract/subaward in the “Action Requested” section and the reason for the amendment request in the “Reason for the request” section. If requesting a budget amendment, the requestor will use the applicable Proposed Budget Request form (WB 21-06, Attachment 2 or 3)
 - b) Requestor will forward the applicable form(s) to the appropriate Contract Manager for review and approval.
 - c) If acceptable, the Contract Manager will sign off and forward to the Executive Director (or the designee) for approval.
 - d) The Executive Director (or the designee) signs off on request and forwards to the Contract Manager for contract/subaward amendment.
 - e) The Contract Manager sends contract/subaward amendment to parties for signature with instructions to return when signatures are provided.
 - f) The Board’s Executive Director affixes the final signature.

- g) Fully executed copies are forwarded to appropriate parties, including the Board's fiscal agent.
7. Any de-obligation and/or re-obligation of funds will require modification to the applicable contract/subaward.
 8. Contract/Subaward changes or modifications are permitted when any one of the following occurs:
 - a. The description of the services to be performed is changed.
 - b. The time of performance is altered.
 - c. The location where the services are to be performed is moved.
 - d. The location identified for delivery is changed.
 - e. The drawing, design or specifications are altered.
 - f. The dollar amount to be paid to the subrecipient is increased or decreased, based on other changes to the contract.
 - g. Legal, regulatory, rule or policy changes are adopted at the federal, state or local level that requires an amendment to the subaward
 - h. It is deemed to be in the best interest of the Board or subrecipient to modify the terms of the existing subaward.

Note: Section XIII.D updated with minor wording changes effective 4/1/21

E. Pre-Award and Annual Review Requirements

(FMGC 14.71)

Prior to final execution of a subaward, the Board shall conduct a pre-award review to determine subrecipient "responsibility" in accordance with TWC requirements. Reviews shall also be conducted annually of subrecipients for workforce services (including services for targeted populations, childcare, one-stop center operations and management) in advance of the start date of the next subaward period to determine that subrecipients have sufficient insurance, bonding and liability coverage for the overall financial security of the funds and operations. Such review, at a minimum, will include review and evaluation of documents and may include an on-site review to assess the subrecipient's ability to perform services or to evaluate fiscal and/or administrative systems and functions that may not be managed locally or are managed at a central site. At a minimum, the following items will be reviewed and evaluated during the pre-award and annual reviews:

- Most recent audit;
- Most recent tax return;
- Current organizational chart;
- Accounting policies and procedures, or updated version, if changed since prior review;
- Procurement policies and procedures, or updated version, if changed since prior review;
- Current cost allocation plan
- Indirect cost rate;
- Operational policies and procedures, or updated version, if changed since prior review;
- Year to date financial statements;

- Bond, insurance or other methods to secure funds;
- Chart of accounts, or updated version, if changed since prior review; and
- EEO/affirmative action plan, or updated version if changed since prior review

The Assessment of Ability to Perform Services may include an on-site visit to:

1. Review and confirm organization practices with respect to documents and certifications submitted as part of the response to the RFP.
2. Review internal monitoring procedures of the organization.
3. Assess internal controls and accounting practices used by the organization in administering funds.
4. Review overall procedures and practices of the organization in meeting requirements of applicable State and Federal regulations.
5. Review the organizations ability to successfully perform services defined in the proposal.
6. Assess the organizations practices with respect to meeting the conditions of the subaward to be awarded.
7. Review the assurances regarding debarment and suspensions and determine if the subrecipient is prohibited from receiving Federal funds. To further verify the subrecipient is not prohibited from receiving Federal funds, the assessment will include a review of the Federal System for Award Management (SAM) and the Debarred Vendor List.
8. Review the certifications, such as the drug free workplace and other required certifications, to ensure that all attestations have been made.
9. Review the most recent audit for exceptions or management letter points affecting the proposed subaward.

Note: Section XIII.E. updated effective 8/1/20

F. Advertising



WSWCTB
Subrecipient Adverti

G. Sanctions



WSWCTB Sanction
Policy

H. Repayment of Funds



WSWCTB Funds
Repayment Policy Ef

I. MOUs and IFAs

WIOA requires Boards, with the agreement of their chief elected officials (CEOs), to develop and enter into Memoranda of Understanding (MOUs) with statutorily required partners regarding the operation and funding of Texas workforce system services. Additionally, WIOA allows Boards to enter into MOUs with optional partners. However, if required partners meet either of the following conditions, the MOU requirement is waived:

- partner programs that are under the purview of the Texas Workforce Commission (TWC) or that are Board-administered, such as UI and the Choices Program, or
- required partners that are not operating in the local workforce area.

The local partnership agreement between the Board and CEOs representing the WSWCTB area delegates signatory authority for an MOU to the Board's Executive Director. Therefore, MOUs for WSWCTB are signed by the Executive Director and do not require signatures from CEOs.

The Board's MOUs and Infrastructure Funding Agreements (IFAs) with WIOA partner entities adhere to the requirements outlined in the TWC WIOA Guide to Texas Workforce System Operations ("Guide"). The Guide contains provisions for meeting federal requirements for MOU contents as well as required elements in the IFA. WSWCTB develops separate MOUs with individual partners rather than utilizing an umbrella agreement with all partners. In addition, WSWCTB utilizes the guidance contained in the Guide for identifying and funding the operating costs of the local workforce system, and for developing the one-stop operating budget and IFAs.

XIV. Travel



WSWCTB Travel
Policy Eff. 8/3/20

XV. Record Retention and Disposition

A. Record Retention

The Board shall adhere to the requirements of the TWC FMGC related to record retention and shall require all subrecipients to comply with these same requirements. The requirements apply to all records that are either 1) expressly required to be maintained by these requirements, program regulation or the subaward agreement, or 2) that are otherwise reasonably considered as being pertinent to program regulations or the subaward agreement. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records in fulfilling these requirements.

In general, records must be retained for 3 (three) years from the starting date shown in the matrix below. Two exceptions exist:

- If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.
- If the Board has made special arrangements for a subrecipient to transfer to the Board any records that are continuously needed for joint use (to avoid duplicate recordkeeping), the three-year requirement is not applicable to the subrecipient.

Record Retention Start Date

Record Type	Start Date
All financial and programmatic records, supporting documents, statistical records, and other records of subrecipients, sub-subrecipients, awardees and subawardees except as otherwise indicated in this matrix.	Date subrecipient, sub-subrecipient, awardee or subawardee submits to the awarding agency its single or last audit report for that period unless the circumstances in footnote 1 exist.
Real property and equipment.	Date of the disposition or replacement, or transfer at the direction of the Board.
Records for income transactions after grant or subgrant support (in cases where subrecipients must report income after the period of subaward support).	End of the subrecipients fiscal year in which the income is earned.
Indirect cost rate proposals, cost allocations plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable, and their supporting records.	<i>If submitted for negotiation:</i> date the plan/proposal is submitted for negotiation. <i>If not submitted for negotiation:</i> end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

B. Disposition

1. The Board Executive Director, or designee, shall ensure that all necessary Board data and records are maintained for the required period in an accessible location and are not disposed of prior to the end of that period.
2. The Board Executive Director, or designee, may request clarification from the appropriate state or federal agency, regarding disposal of records, but is not required to obtain permission to dispose of records, unless specifically stated in an award agreement or subaward.
3. Disposal of records shall be through destruction or shredding that ensures that records may not be reclaimed by unauthorized individuals or parties.

4. Board subrecipients are also required to conform to these standards and are monitored to ensure compliance.

XVI. Workplace Policies

The Board values maintaining a high-quality work environment for all employees that not only complies with state and federal requirements, but ensures employees have a pleasant, safe environment that provides the necessary surroundings, tools and resources to ensure success. More detailed workplace policies and procedures are contained in the Boards' Personnel Policy handbook.

A. Smoke-Free and Drug-Free Workplace

The Board has a smoke-free and drug-free workplace policy. Subrecipient applicants for employment, who are selected for interviews, should be informed of this policy at the time of their interview. At the time of hire, subrecipient employees must also be provided with a copy of the policy and are required to sign a certification attesting to their awareness and knowledge of the policy.

B. Workplace Violence

The Board is committed to ensuring that threats of violence in the workplace are handled in the most effective and expeditious way possible, with an emphasis on safety. A threat of violence is defined as: any act of physical aggression or any statement which could be perceived as intent to cause harm to an employee or any other person connected with the workplace or to the Board itself.

The Board has established the following policies and procedures to address threats of violence in the workplace:

- The Board has the right to inspect all Board property. The Board reserves the right to enter or inspect any employee work area including but not limited to desks, telephones, computers and computer storage disk with or without notice.
- Management may monitor telephone conversations, voice and E-mail messages. Any message or conversation discovered by management that constitutes a threat of violence in the workplace can be used as the basis for immediate disciplinary or law enforcement-related action.
- Employees that violate this policy are subject to immediate disciplinary action up to and including termination from employment.
- Non-employee violators of this policy are subject to expulsion from the facility and the denial of services.
- Retaliation of any kind against employees, who in good faith report threats of violence in the workplace or cooperate in the investigation of such complaint, is prohibited.
- Any employee who witnesses, or to whom a threat of violence in the workplace is reported, is responsible for taking prompt and appropriate action, given the specific circumstances of the case. Appropriate action for emergency situations may dictate the immediate intervention of outside authorities such as

police or medical professionals. If the threat does not require emergency action, the employee should report the threat to his or her immediate supervisor. The supervisor or the designated appointee is responsible for assessing an appropriate plan of action considering the circumstances of each case.

C. Equal Opportunity

EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief; or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIOA Title I financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

What to do if you believe you have experienced discrimination. If you think that you have been subjected to discrimination under a WIOA Title I- financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210, or electronically as directed on the CRC Web site at www.dol.gov/crc. If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above). If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that Notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient). If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

To file a complaint with the Board EO Officer, contact:

Kathy Turner, Board EO Officer
500 Chestnut, Suite 1200
Abilene, TX 79602
(325) 795-4200 / Fax: (325) 795-4300

To file a complaint with the State-Level EO Officer, contact:

Boone Fields, TWC EO Officer
101 E. 15th Street, Room 504
Austin, Texas 78778
(512) 463-2400 / Fax: (512) 463-7804

For complaints related to TWSVRS services, contact:

Tommy Higgins, VR EO Liaison
500 Chestnut, Suite 1000
Abilene, TX 79602
(325) 795-4200 / Fax: (325) 795-4339

For individuals with speech or hearing loss who need to use Relay services, contact:

Relay Texas: 711
1-800-735-2989 (TDD)
1-800-735-2988 (Voice)

Board EO Policy



EO Policy Eff. 11/1/
19

Note: The Board's Alternative Dispute Resolution policy is contained in the embedded EO policy above, in section 6.8.5.

D. Fraud



WSWCTB Fraud
Policy

E. Whistleblower



WSWCTB
Whistleblower Polic

F. Requesting IT Service



WSWCTB
Requesting IT Servic

Note: Board IT policies and procedures related to system access are located on the Board Intranet page at: <http://intranet/wctwdb/docs/InformationSystemPolicy.docx>.

G. Reporting Negative Incidents



Reporting Negative
Incidents - 1/31/18

H. Protection of Personally Identifiable Information



WSWCTB PII Policy
Eff. 7/11/18

XVII. Training Provider Policy



WSWCTB ETPS
Policy Eff. 2/26/21

XVIII. Board Complaint Procedure

Note: The Board's complaint policies and procedures are located in the Equal Opportunity policy document, at section XVI.C. The public notice for program complaints is provided in the embedded document below.



WSWCTB
Complaint Notice 6/

XIX. Co-Location of Partners

Workforce partners that are approved for co-location will be required to enter into an agreement (containing applicable policies and procedures) with the Workforce Solutions of West Central Texas Board. The following policy applies to those agreements.



Partner Co-Location
Policy 06/2021

XX. Requests for Policy Clarifications



WSWCTB Policy TA
Request Eff. 4/26/13

XXI. Local Policies

The Board conveys local program and operational policies to subrecipients through use of a WB (Workforce Board) letter. WB letters are maintained on the shared network drive in the Policy Directives folder, which is accessible to all workforce staff. WB Letters are logged in the WB Letter Index, in the same folder. Clarifications to Board policies that do not necessitate a new issuance of the complete policy are provided in policy clarification documents, which are logged in the WCT Policy Clarification Index.

In the same folder, the Board also maintains a matrix of WD letters that identifies the subject, if any action is required by the Board or a contractor, and other pertinent information.

A. Policy Change Requests

As the administrative entity, the Board develops program and system policies to more effectively manage the delivery of workforce services. To this end, the Board has established the following procedure to allow subrecipients to request changes in Board policies that directly impact service delivery.



WSWCTB Policy
Change Request Pol

The embedded document below is the form that should be submitted to the appropriate contract manager when a subrecipient would like to request a change in a Board policy.



WSWCTB Policy
Change Request Fo

