

1           SUBCHAPTER O. COUNTY TRANSPORTATION INFRASTRUCTURE  
2                                 FUND GRANT PROGRAM

3     §15.180. Purpose. Transportation Code, Chapter 256, Subchapter  
4     C, requires the department to establish and administer a grant  
5     program that provides funding to counties for transportation  
6     infrastructure projects located in areas of the state affected  
7     by increased oil and gas production. This subchapter sets forth  
8     the procedures for submission and review of applications, the  
9     allocation of funds to eligible counties, and the reimbursement  
10    to counties of allowable costs incurred under the grant program.

11  
12    §15.181. Definitions. The following words and terms, when used  
13    in this subchapter, shall have the following meanings, unless  
14    the context clearly indicates otherwise.

15           (1) Commission--The Texas Transportation Commission.

16           (2) Department--The Texas Department of Transportation.

17           (3) District--One of the geographic areas into which the  
18    department is divided in order to conduct its primary work  
19    activities.

20           (4) Executive director--The executive director of the  
21    department, or the executive director's designee.

22           (5) Fund--The transportation infrastructure fund  
23    established under Transportation Code, Chapter 256, Subchapter

1 C.

2 (6) Transportation infrastructure project--The planning  
3 for, construction of, reconstruction of, or maintenance of  
4 transportation infrastructure, including roads, bridges, and  
5 culverts, intended to alleviate degradation caused by the  
6 exploration, development, or production of oil or gas. The term  
7 includes work intended to prevent or reduce further damage to a  
8 road and the lease or rental of equipment used for road  
9 maintenance.

10 (7) Weight tolerance permit--A permit issued under  
11 Transportation Code, Chapter 623 authorizing a vehicle to exceed  
12 maximum legal weight limitations.

13 (8) Well completion--The completion, reentry, or  
14 recompletion of an oil or gas well as documented by the well  
15 operator's initial submission to the Railroad Commission of  
16 Texas of a report containing that information.

17

18 §15.182. Eligibility. To be eligible for a grant from the  
19 fund, a county must:

20 (1) be entirely or partially in an area affected by  
21 increased oil and gas production;

22 (2) create a county energy transportation reinvestment  
23 zone under Transportation Code, §222.1071; and

1           (3) create an advisory board under Transportation Code,  
2     \$222.1072 for the county energy transportation reinvestment  
3     zone.

4

5     \$15.183. Matching Funds.

6           (a) Amount. To receive money from the fund a county must  
7     provide matching funds in an amount at least equal to:

8           (1) 20 percent of the amount of the grant; or

9           (2) if the county is an economically disadvantaged  
10    county, as defined in Transportation Code, §222.053, 10 percent  
11    of the amount of the grant.

12          (b) Cash match. The matching funds must be cash and may be  
13    from any source other than the department.

14

15     \$15.184. Award.

16          (a) Mandatory award. The department will award a grant  
17    from the fund to each eligible county that submits a valid  
18    application in accordance with §15.188 of this subchapter  
19    (relating to Application Procedure).

20          (b) Amount. The department will determine the amount of  
21    the award in accordance with the allocations under §15.185 and  
22    §15.186 of this subchapter (relating to Allocation to Counties  
23    and Calculation of Award, respectively) and will pay the amount

1 as described by §15.192 of this subchapter (relating to Payment  
2 of Money).

3

4 §15.185. Allocation to Counties.

5 (a) Allocation formula. Of the total amount awarded from  
6 the fund during a state fiscal year:

7 (1) 20 percent will be allocated under subsection (b) of  
8 this section according to the weight tolerance permits ratio;

9 (2) 20 percent will be allocated under subsection (c) of  
10 this section according to the oil and gas production taxes  
11 ratio;

12 (3) 50 percent will be allocated under subsection (d) of  
13 this section according to the well completion ratio; and

14 (4) 10 percent will be allocated under subsection (e) of  
15 this section according to the volume of oil and gas waste  
16 injected ratio.

17 (b) Weight tolerance permits ratio. The amount allocated  
18 to a county under subsection (a)(1) of this section in a fiscal  
19 year is determined by:

20 (1) dividing the weight tolerance permits issued in the  
21 preceding state fiscal year for that county, as determined by  
22 the Texas Department of Motor Vehicles, by the weight tolerance  
23 permits issued in the preceding state fiscal year for all

1 counties that will receive money under subsection (a)(1) of this  
2 section in that year; and

3 (2) multiplying the quotient determined under paragraph  
4 (1) of this subsection by the total amount allocated under  
5 subsection (a)(1) of this section.

6 (c) Oil and gas production taxes ratio. The amount  
7 allocated to a county under subsection (a)(2) of this section in  
8 a state fiscal year is determined by:

9 (1) dividing the amount of oil and gas production taxes  
10 collected by the Texas Comptroller of Public Accounts  
11 (comptroller) in that county in the preceding state fiscal year  
12 by the total amount of oil and gas production taxes collected by  
13 the comptroller in the preceding state fiscal year in all  
14 counties that will receive money under subsection (a)(2) of this  
15 section in that year; and

16 (2) multiplying the quotient determined under paragraph  
17 (1) of this subsection by the total amount allocated under  
18 subsection (a)(2) of this section.

19 (d) Well completion ratio. The amount allocated to a  
20 county under subsection (a)(3) of this section in a state fiscal  
21 year is determined by:

22 (1) dividing the number of well completions in that  
23 county in the preceding state fiscal year, as determined by the

1 Railroad Commission of Texas, by the total number of well  
2 completions in the preceding state fiscal year in all counties  
3 that will receive money under subsection (a)(3) of this section  
4 in that year; and

5 (2) multiplying the quotient determined under paragraph  
6 (1) of this subsection by the total amount allocated under  
7 subsection (a)(3) of this section.

8 (e) Oil and gas waste injected ratio. The amount allocated  
9 to a county under subsection (a)(4) of this section in a state  
10 fiscal year is determined by:

11 (1) dividing the volume of oil and gas waste injected in  
12 the preceding state fiscal year in that county, as determined by  
13 the Railroad Commission of Texas, by the total volume of oil and  
14 gas waste injected in the preceding state fiscal year in all  
15 counties that will receive money under subsection (a)(4) of this  
16 section in that year; and

17 (2) multiplying the quotient determined under paragraph  
18 (1) of this subsection by the total amount allocated under  
19 subsection (a)(4) of this section.

20

21 §15.186. Calculation of Award.

22 (a) Allocation of excess. If the department determines  
23 that the total amount of funds allocated to one or more counties

1 under §15.185 of this subchapter (relating to Allocation to  
2 Counties) exceeds the amount requested in the county's  
3 application, the department will total all of those excess  
4 amounts. The department will, as an additional step in the  
5 allocation process for the same designated period, reallocate  
6 that total in accordance with the procedures in §15.185 of this  
7 subchapter as if it were the initial allocation, except that the  
8 counties whose requested amounts have been satisfied will not be  
9 considered for the purposes of the reallocation.

10 (b) Award. The addition of any excess amounts to a  
11 county's initial allocation will constitute the total amount of  
12 the grant award to that county for the designated period;  
13 provided, however, that a county's grant award for any  
14 designated period may not exceed the amount requested in its  
15 application.

16

17 §15.187. Acceptance of Applications.

18 (a) Request for applications. From time to time the  
19 commission may designate a period during which the department  
20 will accept applications for grants from the fund and, for each  
21 designated period, prescribe conditions for submission.

22 (b) Notice. The department will publish notice of the  
23 request for applications on the department's website and will

1 provide a written notice to the county judge of each county in  
2 the state. The notice will specify:

3 (1) the period of time for submitting applications;

4 (2) the estimated total amount of money available for  
5 grants from the fund for the designated period;

6 (3) the estimated allocation for each county in the state  
7 based on the allocation formula described in §15.185 of this  
8 subchapter (relating to Allocation to Counties) using the  
9 assumption that all counties will be eligible and apply; and

10 (4) any additional conditions for submission.

11

12 §15.188. Application Procedure.

13 (a) Application form. An eligible county may submit to the  
14 department an application for a grant from the fund.

15 (1) The application must be submitted electronically  
16 using the department's automated system designated for the grant  
17 program.

18 (2) A county is responsible for obtaining its use of a  
19 computer system and access to the Internet.

20 (3) Upon request, a county may use the department's  
21 computer system at any district office location.

22 (4) For an application to be valid, the county must  
23 submit the application during a period designated under §15.187



1 of this subchapter (relating to Acceptance of Applications) and  
2 satisfy the requirements of this section.

3 (b) Plan requirements. An application must contain a plan  
4 that:

5 (1) provides a prioritized list of transportation  
6 infrastructure projects to be funded by the grant;

7 (2) describes the scope of each listed transportation  
8 infrastructure project including:

9 (A) a clear and concise description of the proposed  
10 work;

11 (B) a map delineating project location and termini;

12 (C) an implementation plan, including a schedule of  
13 proposed activities;

14 (D) an estimate of project costs;

15 (E) the project funding sources; and

16 (F) other information required by the department;

17 (3) specifies the total amount of grant funds being  
18 requested in the application;

19 (4) identifies matching funds required under §15.183 of  
20 this subchapter (relating to Matching Funds); and

21 (5) identifies other potential sources of funding to  
22 maximize resources available for the listed transportation  
23 infrastructure projects.

1 (c) Additional submissions. In addition to the application  
2 form, the county must also submit:

3 (1) a road condition report described by Transportation  
4 Code, §251.018 made by the county for the preceding year;

5 (2) a copy of the order establishing a county energy  
6 transportation reinvestment zone in the county; and

7 (3) documentation evidencing the creation of an advisory  
8 board as required under Transportation Code, §222.1072.

9 (d) Information for previous grant. If the county has  
10 received a grant under this subchapter, it must also submit:

11 (1) a certification that all previous grants have been or  
12 are being spent in accordance with the applicable plan submitted  
13 under subsection (b) of this section; and

14 (2) an accounting of expenditures under the previous  
15 grant, including any amounts spent on administrative costs.

16

17 §15.189. Review of Application.

18 (a) Preliminary review. The department will conduct a  
19 preliminary review of each timely submitted application within  
20 14 days after the date of receipt of the application and will  
21 notify the applicant in writing if any required information is  
22 missing. The applicant must correct the deficiency on or before  
23 the later of the deadline for submitting applications or the

1 14th day after the date of receipt of a deficiency notice. When  
2 the application is complete, the department will notify the  
3 applicant in writing.

4 (b) Department review. The department will complete the  
5 review of each valid application before the 31st day after the  
6 date that the department receives the application unless  
7 additional time is needed, in which event the executive director  
8 may extend the period up to the 60th day after the date of  
9 receipt of the application by providing written notice of the  
10 extension to the applicant.

11 (c) Additional considerations. In reviewing an  
12 application, the department will:

13 (1) seek other potential sources of funding to maximize  
14 resources available for the transportation infrastructure  
15 projects to be funded by the requested grant; and

16 (2) consult related transportation planning documents to  
17 improve project efficiency and to work effectively in  
18 partnership with the county.

19  
20 \$15.190. Notice of Award. The department will provide a  
21 written notice to each applicant that states the amount of the  
22 grant awarded from the fund or stating the reasons for denial of  
23 the grant.

1

2 §15.191. Agreement.

3 (a) Requirement; content. Before receiving a grant from  
4 the fund, a county must enter into an agreement with the  
5 department under this section. The agreement must include, in  
6 addition to other provisions, a commitment by the county to:

7 (1) place the transportation infrastructure project on  
8 the county road system, if it is a county road not already on  
9 the system;

10 (2) expend grant money received only on allowable costs  
11 as provided in §15.192 of this subchapter (relating to Payment  
12 of Money);

13 (3) comply with all applicable federal, state, and local  
14 environmental laws and regulations and permitting requirements;

15 (4) maintain the road after completion of the proposed  
16 work, if it is a county road; and

17 (5) contribute to the department for each transportation  
18 infrastructure project located on the state highway system, from  
19 the amount awarded to the county from the fund and the county's  
20 matching funds, if applicable, an amount equal to the allowable  
21 costs, as defined by §15.192 of this subchapter, incurred by the  
22 department for that project.

23 (b) Amendment to agreement. Any amendment to the agreement

1 described in subsection (a) of this section must be in writing  
2 and executed jointly by the executive director and the county.  
3 A county may add a transportation infrastructure project to the  
4 prioritized list described in its application submitted under  
5 §15.188 of this subchapter (relating to Application Procedure),  
6 or a project on the list may be moved forward or backward in  
7 priority if the county submits to the department the requested  
8 revision and, for any added project, contains the information  
9 required by §15.188(b)(1) and (2) of this subchapter.

10

11 §15.192. Payment of Money.

12 (a) Allowable costs. A county may receive money from the  
13 fund only as reimbursement of allowable costs related to the  
14 transportation infrastructure projects listed in accordance with  
15 this subchapter. Allowable costs are the necessary project  
16 related expenditures properly attributable to the work performed  
17 and may include a portion or all of the administrative costs of  
18 a county energy transportation reinvestment zone, subject to the  
19 limitations provided in Transportation Code, §222.1071.

20 (1) The county must request reimbursement using the forms  
21 and procedures specified by the department.

22 (2) Reimbursement will be made in accordance with  
23 generally accepted cost accounting practices on the basis of

1 direct and related indirect costs that are incurred after the  
2 department makes the grant award under §15.190 of this  
3 subchapter (relating to Notice of Award).

4 (3) The department, on the request of a county, will make  
5 intermediate payments not more often than monthly.

6 (b) Audit. All county cost records and accounts relating  
7 to a project that receives money from the fund are subject to  
8 audit by representatives of the department and other entities of  
9 the State of Texas and, if applicable, the federal government,  
10 for a period of three years after the date that final payment is  
11 received by the county.

12  
13 §15.193. Certification of Completion. Within 60 days after the  
14 date of completion of a listed transportation infrastructure  
15 project, a county receiving a grant from the fund must submit a  
16 written certification that it has complied with the requirements  
17 of this subchapter, including a certification that the project  
18 has been constructed in accordance with the applicable  
19 requirements. The certification must describe the allowable  
20 costs for the project and the amount reimbursed from the fund.

21  
22 §15.194. Use of Unexpended Funds. If allocated funds remain  
23 after reimbursement of all of a county's listed transportation

1 infrastructure projects, the county may use the unexpended  
2 balance for any transportation project in the county if within  
3 one year after the date of submission of the written  
4 certification required by §15.193 of this subchapter (relating  
5 to Certification of Completion), the county submits in writing  
6 to the department a proposed amendment to the agreement under  
7 §15.191 of this subchapter (relating to Agreement) that  
8 identifies the additional project and contains the information  
9 required by §15.188(b)(2) and (4) of this subchapter (relating  
10 to Application Procedure) for that project, and the department  
11 and county execute the proposed amendment.

12

13 §15.195. Enforcement; Notice of Failure to Comply. (a) The  
14 executive director may:

15 (1) prohibit a county from participating in the program  
16 under this subsection if the executive director determines that  
17 the county has not complied with one or more material  
18 requirements of this subchapter;

19 (2) prohibit a county from participating in the program  
20 under this subsection until the executive director determines  
21 that the county has complied with all material requirements of  
22 this subchapter; or

23 (3) remove a project from participation in the program

1 under this subsection if work on the project is not begun within  
2 three years after the date of the agreement under §15.191 of  
3 this subchapter (relating to Agreement) or within another  
4 reasonable period that is agreed to by the department and the  
5 county.

6 (b) Prior to exercising any of the enforcement remedies  
7 under this section or the reimbursement remedy described under  
8 §15.196 of this subchapter (relating to Reimbursement), the  
9 department will provide to the county written notice that  
10 identifies the applicable requirement and specifies the failure  
11 to comply. The county may respond in writing to the department  
12 with a reasonable schedule for the county's timely compliance  
13 with the applicable requirement, or if compliance is not  
14 practical, with an alternative proposal that is acceptable to  
15 the department. If the county fails to deliver an acceptable  
16 response to the department within 30 days after the date that  
17 the county received the notice under this section, the  
18 department may proceed with the remedy provided under the  
19 applicable section.

20  
21 §15.196. Reimbursement. If a county commences performance on a  
22 transportation infrastructure project but fails to complete the  
23 project, the department may seek reimbursement of all grant



- 1 money received by the county for that project. Any money
- 2 recovered under this section will be deposited to the credit of
- 3 the fund.