



2020 Program Call

County Transportation Infrastructure Fund Grant Program Frequently Asked Questions

Aug. 31, 2020

FREQUENTLY ASKED QUESTIONS

A. Complete Applications

Q: What must be included in a complete application?

A: The completed application must be emailed to CTIF2020@TxDOT.gov no later than 11:59 p.m. on May 27, 2020. A county may request use of TxDOT's computer system at any district office location to complete and submit the application.

A complete application includes the following three documents:

- application form;
- list of prioritized projects; and
- county road condition report.

APPLICATION FORM

A county must indicate under the "Eligibility and Certification Requirements" section on the application form whether it received CTIF grant funds under the prior 2014 CTIF program. If the county did receive any such funds, it must provide the funding information requested under the items 3-5 of the section and make the certification required under item 6. (Note that this information will not affect any grant allocation under the current program so long as the county provides the certification under item 6).

On the application form, a county must complete the "Project Funding" section and identify the matching funds to be provided by the county and additionally identify any other potential sources of funding available. County matching funds must be at least 20 percent of the total grant amount or at least 10 percent of the total grant amount if the county has been identified as an Economically Disadvantaged County by the Texas Transportation Commission.

LIST OF PRIORITIZED PROJECTS

A county must include as part of its application a list of prioritized projects that includes:

- a prioritized list of transportation infrastructure projects (project or projects) to be funded by the Program (utilize the List of Transportation Infrastructure Projects form);
- descriptions of the scope of each project and the proposed project work, an implementation plan, a schedule of proposed activities, and estimates of project costs; and
- the total amount of program funds being requested.

COUNTY ROAD CONDITION REPORT

A county must include as part of its application the county's road condition report (county road report) made by the county for the preceding year as described by Texas Transportation Code §251.018.

Q: When preparing the List of Transportation Infrastructure Projects form, should a county exceed the total of its initial allocated amount if it has projects that exceed the expected amount?

A: Yes. It is anticipated that a county's needs will exceed its grant amount. Counties should include all costs associated with their projects. Counties will be able to modify the project lists and costs after the award, through coordination with TxDOT.

Q: When will a county know its final grant award allocation?

A: Once all completed applications are received, TxDOT will reallocate the total amount of available grant funds among the applying counties. Each applying county will then receive notice of its final allocation utilizing the formula established by the Legislature.

Q: Does a county need to divide its List of Transportation Infrastructure Projects into county precincts? Can grant funds be used only on existing county roads?

A: A county is free to organize its projects in any manner it wishes. There is no limitation on how funds are distributed within a county; however, all grant funds must be used on county road system roads. Funds can be used to construct or improve new roads; however, all roads utilizing grant funds must formally be made part of the county road system.

Q: What is a county road condition report and do all counties prepare one?

A: A county road condition report is a statutorily required report that most counties must prepare annually that addresses the conditions of existing county roads and bridges. Various types of counties come under different provisions of the Texas statutes. Most are addressed as follows: a Road Condition Report under Transportation Code 251 (common county commissioner's court system); a Road Report under Transportation Code 252.107 (road commissioner system); a Road Report under Trans. Code 252.207 (road supervisor system); a report or "plan" under Transportation Code 252.309 (unit road system with a road engineer system); or a certification that the county does not have a traditional road condition report to provide because a special law that applies to the county does not require one.

Q: How does a county know if it is considered an Economically Disadvantaged County (EDC)?

A: The Texas Transportation Commission makes this determination each year based on information from the Texas Comptroller of Public Accounts. Information about the program, including a current EDC list, is available at <https://www.txdot.gov/government/programs/disadvantaged-county.html>. A current list was also provided in the packet mailed to each county judge on March 27, 2020.

B. Processing Agreement and County Signature Authority

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

A: TxDOT could have up to 254 county programs to oversee. So, it's necessary to have a standard agreement with all counties. For this reason, terms and conditions of the agreement are not negotiable.

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

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

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

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

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

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

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

A: The CTIF program has an allotted dollar amount of \$250 million to be distributed amongst eligible county applicants. On March 27, 2020, TxDOT sent a notice to all 254 counties in the state that included an estimated

grant allocation amount based on the statutorily required allocation formula, with the assumption that all 254 counties applied for grants. In the event less than 254 counties apply, the initial allocations for those counties will be reallocated to the counties that do apply. The adopted rules limit the allocation for each applying county to the lesser of the amount requested in its application or its share of the available funds (based upon the statutorily required allocation formula).

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

A: A PDF version of the agreement will be on the website (<http://www.txdot.gov/government/funding/county-fund.html>). This PDF allows information to be typed into the document where appropriate.

The county is to prepare the agreement by:

- filling out the four information fields (Contract #, District #, Code Chart 64 # and Project) in the upper right corner (this information is available from the TxDOT district point of contact);
- inserting the county name on the first page;
- adding the county “Notice” information in paragraph 19;
- attaching the resolution as Attachment A upon approval by Commissioner’s Court; and
- inserting the county name, grant award amount and county matching fund amount on Attachment B.

The grant award amount and county matching fund amount for each county will be available at the same website. The county matching fund amount is calculated by taking the grant award amount (included in Notice of Award letter sent by TxDOT) and dividing it by 90 percent (if the county is economically disadvantaged) or 80 percent (if the county is not economically disadvantaged) to determine the total project costs, then subtracting the grant award amount. As an example, a county that is not classified as economically disadvantaged received a grant award of \$100,000 from TxDOT. The county matching fund amount will be $(\$100,000/0.80) - \$100,000 = \$25,000$. All entries into the agreement described in this paragraph should be made electronically and not hand-written.

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

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

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

C. Consulting and Project Management Fees

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

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

All project costs (including construction, consulting services, environmental reviews, etc.) should be listed as part of the project costs on the Individual Project Billing Summary Sheet. With the Individual Project Billing

Summary Sheet, counties need to attach copies of all paid invoices for construction activities, consultant services, force account documentation and any other costs related to an individual project. Back-up materials to invoices paid by the county do not need to be included in the submittal to TxDOT. Charges for consulting services or program administration that are not directly allocable to project activities are not reimbursable.

Counties are responsible to make sure administrative costs comply with the program requirements and the Uniform Grant Management Standards.

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

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

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

A: The county needs to ensure environmental investigations and analyses as appropriate for the specific project have been performed. On some projects no permits or regulatory clearances may be required. TxDOT requires a qualified professional to certify that an appropriate amount of environmental effort has been performed. The qualified professional can be a county employee or a consultant hired by the county. It is up to the county to deem if an individual is a qualified professional for the certification the person will be signing. The county pays for the necessary environmental review and/or activities. These project-related costs are reimbursable under this program.

Q: For the Environmental Permitting check box in Certification Form #2, does each project require an environmental analysis or is there a standard form that can be submitted? (added Aug. 31, 2020)

A: Each project will require some type of environmental analysis. The analysis and certification should be done by a county employee or consultant that has experience with environmental reviews related to transportation projects. The environmental actions and the submitted certification should reflect the needed and required environmental requirements for the project.

As an example, in the 2014 program call, many counties submitted the following statement for the required environmental certification.

Environmental Permitting and Regulatory Issues

By submitting this form, signed and dated by an authorized representative of the County, the County certifies to TxDOT the following:

The County certifies that the Project consists of improving an existing county road that is part of the county road system and that has previously been maintained by the County. The improvements listed in the Project may include the resurfacing and repairing of the existing county road. The County is unaware of any applicable federal, state, and local environmental laws and regulations that would require permitting for the Project. Further, the County has no requirement for coordination and environmental clearance for the Project. The County has not identified any environmental problems associated with the Project that require costs for mitigation and/or remediation. Finally, the County is not required to provide any public meetings or public hearings for assessing and mitigating environmental issues for the Project.

County Authorized Representative Signature _____ Date _____
County Authorized Representative Name _____ Title _____

Q: Counties often rely on outside professional grant managers to handle administrative functions (such as tracking and reporting, invoice/reimbursement requests, force account documentation, environmental review and compliance, labor standards compliance, acquisition/URA, etc. as well as a general requirement

that we comply with UGMS and OMB Circular A-87). Assuming state procurement requirements are followed, will costs for these contracted services be eligible for reimbursement?

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

D. List of Transportation Infrastructure Projects

Q: On the start and completion date, can we use start date of August 2020 and completion date of December 2020?

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

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

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

E. Procurement of Construction and Maintenance Contracts; Force Account Work

Q: When contracting for construction or maintenance work under the program, the rules state that the contract, if awarded, must be awarded to the lowest responsible bidder. What is a responsible bidder?

(added Aug. 31, 2020)

A: The Texas Transportation Code and the rules for the program do not define what is a responsible contractor. However, the construction industry generally defines the term “responsible” as looking to the bidder’s ability to complete the contractor’s obligations in accordance with what is expected under the terms of the contract. Counties may consider virtually any criteria [adequate financial resources, project experience, has a history of satisfactory performance, workforce to complete the project, equipment (owned, leased or rented) to complete the project, bonding capacity, etc.] reasonably or rationally related to the question of whether the contract, if awarded, could be completed by the bidder in accordance with its terms. The county should outline in the proposal document the criteria that will be used to determine if the bidder is responsible.

Q: Can bids under the program be submitted to consultants working for the county or an online procurement/purchasing service? (added Aug. 31, 2020)

A: Yes, bids can be submitted to consultants working for the county and procurement/purchasing websites. Counties are still required to meet program and Local Government Code requirements including advertising, opening the bid publicly, reading the bids, and awarding the bid to the lowest responsible bidder. Most counties have procurement procedures in place and, in most cases, these procedures will be acceptable under this grant program.

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

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

F. Materials and Force Account Costs

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

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

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

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

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

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

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

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

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

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

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

A: No. TxDOT cannot provide to the counties Blue Book rates for equipment. Use of the Texas Rental Rate Blue Book is not required. Alternative sources for calculating reasonable equipment rental rates (including approved [FEMA rates](#)) are acceptable. *(link updated Feb. 9, 2021)*

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

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

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

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

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

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

Q: Can counties seek reimbursement on the county employee's direct labor costs (hourly wage) plus labor burden when doing project work by force account or when conducting project oversight when the work is being done by a contractor? *(added Aug. 31, 2020)*

A: Yes, counties may seek reimbursement on county employee's labor cost at the actual hourly or salary rate for that employee. Reimbursement for labor burden is also an allowable cost. Labor burden may include such items as:

- Social Security;
- unemployment tax;
- insurance benefits including health, life, short-term and long-term disability;
- worker's compensation;
- retirement contribution;
- paid holidays, vacation and other absences; and
- optional county specific benefits.

The labor burden used should be the most recent actual rate as approved by an independent audit or approved by a county official.

Q: Can we use the CTIF funds to pay for our AutoCAD subscription since we will be doing all the in-house engineering using our AutoCAD? (added Aug. 31, 2020)

A: Yes, paying for program or project-related services and subscriptions are allowable and reimbursable costs. Counties will need to track and seek reimbursement for actual time the service was used on a project-by-project basis using a prorated hourly rate.

G. Authorization to Commence Construction

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

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

H. Projects on State ROW

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

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

I. Program Clarification

Q: Concerning the deadlines outlined in the certification forms, are the "days" calendar days or business days? (added Aug. 31, 2020)

A: Under the program, "days" are defined as calendar days.

Q: The grant agreement requires counties to comply with all applicable requirements of the Comptroller of Public Accounts (CPA) Historically Underutilized Business (HUB) Program. Where can I find out more information on the HUB program requirements? (added Aug. 31, 2020)

A: Additional information on the Comptroller of Public Accounts HUB Program can be found at <https://comptroller.texas.gov/purchasing/vendor/hub/>. The HUB program is administered in accordance with Texas Government Code Section 2161 and the Texas Administrative Code, Title 34, Chapter 20, Subchapter D, Division 1, Sections 20.281 through 20.298.