



CORONAVIRUS RELIEF FUND (CRF)
LOCAL EDUCATION AGENCIES
TERMS AND CONDITIONS
TEXAS DIVISION OF EMERGENCY MANAGEMENT

About This Document

In this document, subrecipients will find the terms and conditions applicable to payments distributed in the form of funding to local education agencies (LEAs) from the Coronavirus Relief Fund established within section 601 of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

LEAs receiving funding must ensure an individual with the authority to obligate funds and enter into contracts certifies compliance with all terms and conditions of this Funding Agreement by fully executing and submitting to TDEM Exhibits A, B, C, D, E, F, and G. These requirements are in addition to those that can be found within the Grant Management System (GMS), to which subrecipients agreed to when accepting the award. Other state and federal requirements and conditions may apply to your award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code; the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the funding application was made; and any applicable documents referenced in the documents listed above.

To the extent the terms and conditions of this Funding Agreement do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be construed consistent with the general objectives, expectations and purposes of this Funding Agreement and in all cases, according to its fair meaning. The parties acknowledge that each party and its counsel have reviewed this Funding Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Funding Agreement. Any vague, ambiguous, or conflicting terms shall be interpreted and construed in such a manner as to accomplish the purpose of the Funding Agreement.

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1. Funding Agreement Requirements and Conditions

1.1 Applicability of Funding Agreement and Provisions

The Funding Agreement is subject to the additional terms, conditions, and requirements of other laws, rules, regulations and plans recited herein and is intended to be the full and complete expression of and constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and all prior and contemporaneous understandings, agreements, promises, representations, terms and conditions, both oral and written, are superseded and replaced by this Funding Agreement.

Notwithstanding any expiration or termination of this Funding Agreement, the rights and obligations pertaining to the award close-out, cooperation and provision of additional information, return of funds, audit rights, records retention, public information, and any other provision implying survivability shall remain in effect after the expiration or termination of this Funding Agreement.

1.2 Legal Authority to Apply

The subrecipient certifies that it possesses legal authority to apply for the funding. A resolution, motion or similar action has been or will be duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative, or their designee of the subrecipient to act in connection with the application and to provide such additional information as may be required.

1.3 Funding Acceptance

The funding award remains an offer until the fully executed copy of this Funding Agreement is received by the Texas Division of Emergency Management (TDEM).

1.4 Project Period

Funding has been authorized for eligible expenditures incurred between March 1, 2020 and May 20, 2020. All expenditures must be incurred, and all services must be received within the performance period. TDEM will not be obligated to reimburse expenses incurred after the performance period.

Under this Funding Agreement, a cost "incurred" is defined as obligated by the LEA as of close of business on May 20, 2020. The federal term "obligated" means orders placed for property and services, contracts and subawards made, and similar transactions made during a specified period (from March 1, 2020, through May 20, 2020) that require payment by the LEA during the same or a future period.

Issuing a purchase order does not meet the federal definition of making an obligation. To be a binding obligation, the purchase order must be received and acknowledged by vendor.

The following chart reflects when an obligation is made, by federal regulations:

If the obligation is for—	The obligation is made—
(a) Acquisition of real or personal property	On the date on which the LEA makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the LEA	When the services are performed.
(c) Personal services by a contractor who is not an employee of the LEA	On the date on which the LEA makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services	On the date on which the LEA makes a binding written commitment to obtain the work.
(e) Public utility services	When the LEA receives the services.
(f) Travel	When the travel is taken.
(g) Rental of real or personal property	When the LEA uses the property.
(h) A pre-agreement (pre-award) cost that was properly approved by TEA under the cost principles in 2 CFR part 200, Subpart E—Cost Principles	On the first day of the performance period.

1.5 General Responsibility

Allowable Uses of Funds

- Necessary expenditures incurred due to COVID-19 pandemic¹
- Allowable costs that were not accounted for in the most recently approved budget as of March 27, 2020²
- Allowable costs incurred March 1, 2020, through May 20, 2020³

Specifically listed in Treasury guidance:

- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions
- Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures.

Unallowable Uses of Funds

- Expenses for the State share of Medicaid.
- Damages covered by insurance
- Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency (general LEA employees)

The U.S. Treasury Office of Inspector General has oversight for determining allowability of costs and will recoup any funds determined to not be allowable.

¹Expenditures must be used for actions taken to respond to the public health emergency; may include expenditures to respond directly to the emergency, or to second-order effects of the emergency

² (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation; without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency

³ When the entity has expended funds to cover the cost

Further explanation of these categories and examples can be found at the following link:

<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>

The subrecipient certifies compliance with these eligible expenses by executing the CARES Act Coronavirus Relief Fund Eligibility Certification Form in Exhibit C, which is attached hereto and incorporated for all purposes.

The subrecipient is responsible for the integrity of the fiscal and programmatic management of the project; accountability for all funds awarded; and compliance with TDEM administrative rules, policies and procedures, and applicable federal and state laws and regulations.

The subrecipient will maintain an appropriate administration system to ensure that all terms, conditions and specifications of the Funding Agreement are met.

1.6 Cost Share and Funding Cap

TDEM will provide funding up to 75% of eligible expenditures, to be reimbursed subject to a cap per LEA and subject to CRF funding availability. Each LEA will be capped at a reimbursement amount equal to the greater of \$50,000 or \$250 per compensatory education (SCE) student in the LEA.

The application and reimbursement request submission period will close at 5:00 pm on September 30, 2020. At the end of this period, the statewide LEA funding requested will be reviewed and finalized.

1.7 Prohibition on Use of Funds for Match

The subrecipient may not use any portion of the award provided under this Funding Agreement to meet the non-federal share match requirement of FEMA Public Assistance (PA) project worksheets.

1.8 Amendments and Changes to the Funding Agreement

TDEM and the subrecipient may agree to make adjustments to the Funding Agreement. Adjustments include, but are not limited to, modifying the scope of the award, adding funds to previously un-awarded cost items or categories, changing funds in any awarded cost items or category, deobligating awarded funds or changing award officials.

The subrecipient has no right or entitlement to reimbursement with award funds. TDEM and subrecipient agree that any act, action or representation by either Party, their agents or employees that purports to waive or alter the terms of the Funding Agreement or increase the maximum liability of TDEM is void unless a written amendment to this Funding Agreement is first executed and

documented in GMS. The subrecipient agrees that nothing in this Funding Agreement will be interpreted to create an obligation or liability of TDEM in excess of the amount of CRF funds awarded to subrecipient.

Any alterations, additions, or deletions to the terms of this Funding Agreement must be documented in GMS to be binding upon the Parties. Notwithstanding this requirement, it is understood and agreed by Parties hereto, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this Funding Agreement and that any such changes shall be automatically incorporated into this Funding Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

1.9 Public Information and Meetings

Notwithstanding any provisions of this Funding Agreement to the contrary, the subrecipient acknowledges that the State of Texas, TDEM, and this Funding Agreement are subject to the Texas Public Information Act, Texas Government Code Chapter 552 (the "PIA"). The subrecipient acknowledges that TDEM will comply with the PIA, as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas.

The subrecipient acknowledges that information created or exchanged in connection with this Funding Agreement, including all reimbursement documentation submitted to TDEM, is subject to the PIA, whether created or produced by the subrecipient or any third party, and the subrecipient agrees that information not otherwise excepted from disclosure under the PIA, will be available in a format that is accessible by the public at no additional charge to TDEM or State of Texas. The subrecipient will cooperate with TDEM in the production of documents or information responsive to a request for information.

1.10 Remedies for Non-Compliance

If TDEM determines that the subrecipient materially fails to comply with any term of this Funding Agreement, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application, a notice of award, or any other applicable requirement, TDEM, in its sole discretion may take actions including:

1. Temporarily withholding cash payments pending correction of the deficiency or more severe enforcement action by TDEM;
2. Disallowing or denying use of funds for all or part of the cost of the activity or action not in compliance;
3. Disallowing claims for reimbursement;
4. Wholly or partially suspending or terminating this Funding Agreement;
5. Requiring return or offset of previous reimbursements;
6. Prohibiting the subrecipient from applying for or receiving additional funds for other grant programs administered by TDEM until repayment to TDEM is made and any other compliance or audit finding is satisfactorily resolved;
7. Reducing the funding award maximum liability of TDEM;
8. Terminating this Funding Agreement;

9. Imposing a corrective action plan;
10. Withholding further awards; or
11. Taking other remedies or appropriate actions.

The subrecipient costs resulting from obligations incurred during a suspension or after termination of this Funding Agreement are not allowable unless TDEM expressly authorizes them in the notice of suspension or termination or subsequently.

TDEM, at its sole discretion, may impose sanctions without first requiring a corrective action plan.

1.11 False Statements by Subrecipient

By acceptance of this Funding Agreement, the subrecipient makes all the statements, representations, warranties, guarantees, certifications and affirmations included in this Funding Agreement. If applicable, the subrecipient will comply with the requirements of 31 USC § 3729, which set forth that no subrecipient of federal payments shall submit a false claim for payment.

If any of the statements, representations, certifications, affirmations, warranties, or guarantees are false or if the subrecipient signs or executes the Funding Agreement with a false statement or it is subsequently determined that the subrecipient has violated any of the statements, representations, warranties, guarantees, certifications or affirmations included in this Funding Agreement, then TDEM may consider this act a possible default under this Funding Agreement and may terminate or void this Funding Agreement for cause and pursue other remedies available to TDEM under this Funding Agreement and applicable law. False statements or claims made in connection with TDEM awards may result in fines, imprisonment, and debarment from participating in federal awards or contract, and/or other remedy available by law, potentially including the provisions of 38 USC §§ 3801-3812, which details the administrative remedies for false claims and statements made.

1.12 Conflict of Interest Safeguards

The subrecipient will establish safeguards to prohibit its employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain, whether for themselves or others, particularly those with whom they have family, business, or other ties. The subrecipient will operate with complete independence and objectivity without actual, potential, or apparent conflict of interest with respect to its performance under this Funding Agreement. The subrecipient certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by a member of The A&M System, has direct or indirect financial interest in the award of this Funding Agreement, or in the services to which this Funding Agreement relates, or in any of the profits, real or potential, thereof.

1.13 Fraud, Waste, and Abuse

The subrecipient understands that TDEM does not tolerate any type of fraud, waste, or misuse of funds received from TDEM. TDEM's policy is to promote consistent, legal, and ethical organizational behavior, by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, TDEM policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. The subrecipient understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal and state grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

In the event subrecipient becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from TDEM that is made against the subrecipient, the subrecipient is required to immediately notify TDEM of said allegation or finding and to continue to inform TDEM of the status of any such on-going investigations. The subrecipient must also promptly refer to TDEM any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. Subrecipients must also immediately notify TDEM in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with Funding Agreement requirements. Subrecipients must notify the local prosecutor's office of any possible criminal violations. Subrecipients must immediately notify TDEM in writing if a project or project personnel become involved in any litigation, whether civil or criminal, and the subrecipient must immediately forward a copy of any demand, notices, subpoenas, lawsuits, or indictments to TDEM.

1.14 Termination of the Agreement

TDEM may, at its sole discretion, terminate this Funding Agreement, without recourse, liability or penalty against TDEM, upon written notice to subrecipient. In the event subrecipient fails to perform or comply with an obligation or a term, condition or provision of this Funding Agreement, TDEM may, upon written notice to subrecipient, terminate this agreement for cause, without further notice or opportunity to cure. Such notification of Termination for Cause will state the effective date of such termination, and if no effective date is specified, the effective date will be the date of the notification.

TDEM and subrecipient may mutually agree to terminate this Funding Agreement. TDEM in its sole discretion will determine if, as part of the agreed termination, subrecipient is required to return any or all of the disbursed funds.

Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law, or under this Funding Agreement, including those remedies listed at 2 C.F.R. 200.207 and 2 C.F.R. 200.338 – 200.342. Following termination by TDEM, subrecipient shall continue to be obligated to TDEM for the return of funds in accordance with applicable provisions of this Funding Agreement. In the event of termination under this Section, TDEM's obligation to reimburse subrecipient is limited to allowable costs incurred and paid by the subrecipient prior to the effective date of termination, and any allowable costs determined by TDEM in its sole discretion to be reasonable and necessary to cost-effectively wind up the award. Termination of this Funding Agreement for any reason or expiration of this Funding Agreement shall not release the Parties from any liability or obligation set forth in this Funding Agreement that is expressly stated to survive any such termination or expiration.

1.15 Limitation of Liability

TO THE EXTENT ALLOWED BY LAW, THE SUBRECIPIENT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND AGENCY, AND/OR THEIR OFFICERS, REGENTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF RESPONDENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE

DEFENSE SHALL BE COORDINATED BY RESPONDENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. RESPONDENT AND AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

The subrecipient agrees that no provision of this Funding Agreement is in any way intended to constitute a waiver by TDEM as an agency of the State of Texas, its officers, regents, employees, agents, or contractors or the State of Texas of any privileges, rights, defenses, remedies, or immunities from suit and liability that TDEM or the State of Texas may have by operation of law.

1.16 Dispute Resolution

The Parties' representatives will meet as needed to implement the terms of this Funding Agreement and will make a good faith attempt to informally resolve any disputes.

Notwithstanding any other provision of this Funding Agreement to the contrary, unless otherwise requested or approved in writing by TDEM, the subrecipient shall continue performance and shall not be excused from performance during the period any breach of Funding Agreement claim or dispute is pending.

The dispute resolution process provided in Chapter 2260, Texas Government Code, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by TDEM and subrecipient to attempt to resolve any claim for breach of contract made by the subrecipient that cannot be resolved in the ordinary course of business. Subrecipient shall submit written notice of a claim of breach of contract under this Chapter to the Chief of TDEM, who shall examine the subrecipient's claim and any counterclaim and negotiate with subrecipient in an effort to resolve the claim.

The laws of the State of Texas govern this Funding Agreement and all disputes arising out of or relating to this Funding Agreement, without regard to any otherwise applicable conflict of law rules or requirements. Venue for any subrecipient-initiated action, suit, litigation or other proceeding arising out of or in any way relating to this Funding Agreement shall be commenced exclusively in the Travis County District Court or the United States District Court, Southern District of Texas - Houston Division. Venue for any TDEM-initiated action, suit, litigation or other proceeding arising out of or in any way relating to this Funding Agreement may be commenced in a Texas state district court or a United States District Court selected by TDEM in its sole discretion.

The subrecipient hereby irrevocably and unconditionally consents to the exclusive jurisdiction of the courts referenced above for the purpose of prosecuting and/or defending such litigation. The subrecipient hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any suit, action or proceeding, any claim that the subrecipient is not personally subject to the jurisdiction of the above-named courts; the suit, action or proceeding is brought in an inconvenient forum; and/or the venue is improper.

1.17 Liability for Taxes

The subrecipient agrees and acknowledges that subrecipient is an independent contractor and shall be entirely responsible for the liability and payment of subrecipient's and subrecipient's employees' taxes of whatever kind, arising out of the performances in this Funding Agreement. The subrecipient agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. TDEM and/or the State of Texas shall not be liable to the subrecipient, its employees, agents, or others for the payment of taxes or the provision of unemployment

insurance and/or workers' compensation or any benefit available to a state employee or employee of TDEM.

1.18 Federal Assurances

Subrecipient further certifies that the Federal Assurances of this Funding Agreement, which are attached hereto and incorporated for all purposes as Exhibit A have been reviewed and that subrecipient is in compliance with each of the requirements reflected therein. In addition, subrecipient certifies that it is in compliance with all applicable federal laws, rules, or regulations.

1.19 Required State Assurances

The subrecipient must comply with the applicable State Assurances included within the State Uniform Grant Management Standards (UGMS), Section III, Subpart B, _14, which are attached hereto and incorporated for all purposes as Exhibit B.

1.20 System for Award Management (SAM) Requirements

- A. The subrecipient agrees to comply with applicable requirements regarding registration with the System for Award Management (SAM) (or with a successor government-wide system officially designated by OMB and, if applicable, the federal funding agency). These requirements include maintaining current registrations and the currency of the information in SAM. The subrecipient will review and update information at least annually until submission of the final financial report required under the award or receipt of final payment, whichever is later, as required by 2 CFR Part 25.
- B. The subrecipient will comply with Executive Orders 12549 and 12689 that requires "a contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM)", in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority. The subrecipient certifies it will verify each vendor's status to ensure the vendor is not debarred, suspended, otherwise excluded or declared ineligible by checking the SAM before doing/renewing business with that vendor.
- C. The subrecipient certifies that it and its principals are eligible to participate in this Funding Agreement and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and the subrecipient is in compliance with the State of Texas statutes and rules relating to procurement and that the subrecipient is not listed in the federal government's terrorism watch list as described in Executive Order 13224.

1.21 No Obligation by Federal Government

The Parties acknowledge and agree that the federal government is not a party to this Funding Agreement and is not subject to any obligations or liabilities to either Party, third party or subcontractor pertaining to any matter resulting from this Funding Agreement.

1.22 Notice

Notice may be given to the subrecipient via GMS, email, hand-delivery, or United States Mail. Notices to the subrecipient will be sent to the name and address supplied by subrecipient in GMS.

1.23 Force Majeure

Neither the subrecipient nor TDEM shall be required to perform any obligation under this Funding Agreement or be liable or responsible for any loss or damage resulting from its failure to perform so long as performance is delayed by force majeure or acts of God, including but not limited to strikes, lockouts or labor shortages, embargo, riot, war, revolution, terrorism, rebellion, insurrection, pandemic, epidemic, flood, natural disaster, or interruption of utilities from external causes. Each Party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

1.24 Debt to State

The subrecipient certifies, to the extent subrecipient owes any debt (child support or other obligation) or delinquent taxes to the State of Texas, any payments subrecipient is owed under this Funding Agreement may be applied by the Comptroller of Public Accounts toward any such debt or delinquent taxes until such debt or delinquent taxes are paid in full.

1.25 Franchise Tax Certification

If subrecipient is a taxable entity subject to the Texas Franchise Tax (Chapter 171, Texas Tax Code), then subrecipient certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that subrecipient is exempt from the payment of franchise (margin) taxes.

1.26 Severability

If any provisions of this Funding Agreement are rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted in such manner so as to afford the Party for whose benefit it was intended the fullest benefit commensurate with making this Funding Agreement, as modified, enforceable, and the remainder of this Funding Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.

1.27 E-Verify

By entering into this Funding Agreement, subrecipient certifies and ensures that it utilizes and will continue to utilize, for the term of this Funding Agreement, the U.S. Department of Homeland Security's e-Verify system to determine the eligibility of (a) all persons employed during the contract term to perform duties within Texas; and (b) all persons (including subcontractors) assigned by the subrecipient pursuant to the Funding Agreement.

1.28 Compliance with Federal Law, Regulations, and Executive Orders

Subrecipient acknowledges that federal financial assistance funds will be used to fund the Funding Agreement. Subrecipient will comply with all applicable federal law, regulations, executive orders, policies, procedures, and directives.

1.29 Clean Air Act

The following is only applicable if the amount of the contract exceeds \$150,000.

- a. Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

- b. Subrecipient agrees to report each violation to TDEM and understands and agrees that TDEM will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Subrecipient Office.
- c. Subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by this Funding Agreement.

1.30 Federal Water Pollution Control Act

- a. Subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- b. Subrecipient agrees to report each violation to TDEM and understands and agrees that TDEM will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. Subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by this Funding Agreement.

1.31 Suspension and Debarment

- a. This Funding Agreement is a covered transaction for purposes of 2 C.F.R. pt 180 and 2 C.F.R. pt. 3000. Subrecipient certifies that subrecipient, subrecipient's principals (defined at 2C.F.R. Sec. 180.995), or its affiliates (defined at 2 C.F.R. Sec. 180.905) are not excluded (defined at 2 C.F.R. Sec. 180.940) or disqualified (defined at 2 C.F.R. Sec. 180.935).
- b. Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by TDEM. If it is later determined that subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, in addition to remedies available to TDEM, the Federal Government may pursue available remedies, including but limited to suspension and/or debarment.

1.32 Energy Conservation

If applicable, subrecipient agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

1.33 Procurement of Recovered Materials

- a. In the performance of this Funding Agreement, subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired –
 - (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
 - (ii) Meeting contract performance requirements; or
 - (iii) At a reasonable price.

- b. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

1.34 *Compliance with the Contract Work Hours and Safety Standards Act*

- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek..
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section..
- c. Withholding for unpaid wages and liquidated damages. Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section..
- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

1.35 *Hurricane Contract Violations*

Texas law prohibits TDEM from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under section 2155.006 of the Texas Government Code, the subrecipient is not ineligible from entering into this Funding Agreement and

acknowledges that this Funding Agreement may be terminated and payment withheld or return of award funds required if this certification is inaccurate or false.

1.36 Terminated Contracts

The subrecipient has not had a contract terminated or been denied the renewal of any contract for noncompliance with policies or regulations of any state or federally funded program within the past five (5) years nor is it currently prohibited from contracting with a governmental agency. If the subrecipient does have such a terminated contract, the subrecipient shall identify the contract and provide an explanation for the termination. The subrecipient acknowledges that this Funding Agreement may be terminated and payment withheld or return of funds required if this certification is inaccurate or false.

2 Property and Procurement Requirements

2.1 Property Management and Inventory

The subrecipient must ensure equipment purchased with CRF funds is used for the purpose of the Funding Agreement and as approved by TDEM. The subrecipient must develop and implement a control system to prevent loss, damage or theft of property and investigate and document any loss, damage or theft of property funded under this Funding Agreement.

The subrecipient must account for any real and personal property acquired with CRF funds or received from the Federal Government. This documentation must be maintained by the subrecipient, according to the record retention requirements listed herein, and provided to TDEM upon request, if applicable.

When original or replacement equipment acquired under this award by the subrecipient is no longer needed for the original project or program or for other activities currently or previously supported by the federal awarding agency or TDEM, the subrecipient must make proper disposition of the equipment pursuant to 2 CFR 200.

The subrecipient will maintain specified equipment management and inventory procedures for equipment (including replacement equipment), whether acquired in whole or in part with CRF funds, until disposition takes place, with a per-unit cost of \$5,000 or greater. The equipment and inventory procedures include:

- A. The subrecipient must keep an inventory report on file containing equipment purchased with any CRF funds during the period of performance. The inventory report must agree with the approved budget and the final Financial Status Report and shall be available to TDEM at all times upon request.
- B. The subrecipient must maintain property/inventory records which, at minimum, include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, the cost of the property, the percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- C. The subrecipient shall permanently identify all such equipment by appropriate tags or labels affixed to the equipment. Exceptions to this requirement are limited to items where placing of the marking is not possible due to the nature of the equipment.

2.2 Procurement Practices and Policies

The subrecipient must follow applicable federal and state law, federal procurement standards specified in regulations governing federal awards of “other financial assistance” (as defined by 2 CFR 200.40(a)(6)) to non-federal entities, subrecipients’ established written policies, and best practices for procuring goods or services with CRF funds. Procurement activities must follow the most restrictive of federal, state and local procurement regulations. Whenever possible, goods and services should be procured consistent with the standards of 2 CFR 200.317 – 326. Contracts must be routinely monitored for delivery of services or goods.

2.3 Contract Provisions Under Federal Awards

All contracts made by a subrecipient under a federal award must contain the provisions outlined in 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Appendix II to Part 200 Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

3 Audit and Records Requirements

3.1 Cooperation with Monitoring, Audits, and Records Requirements

All records and expenditures are subject to, and subrecipient agrees to comply with, monitoring and/or audits conducted by the United States Department of Treasury’s Inspector General (DOTIG), TDEM, and the State Auditor’s Office (SAO) or designee. The subrecipient shall maintain under GAAP or GASB, adequate records that enable DOTIG, TDEM, and SAO to ensure proper accounting for all costs and performances related to this Funding Agreement.

3.2 Single Audit Requirements

Any subrecipient expending \$750,000 or more in federal funds in a fiscal year may be subject to Single Audit Requirements in 2 CFR, Part 200, Subpart F – Audit Requirements, at https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl.

The subrecipients expending more than \$750,000 in state funds in a fiscal year are subject to the requirements in the Texas Single Audit Circular, at <http://comptroller.texas.gov/procurement/catrad/ugms.pdf>. The audit must be completed and the data collection and reporting package described in 2 CFR 200.512 must be submitted to the Federal Audit Clearinghouse (FAC) within 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, whichever is earlier.

3.3 Requirement to Address Audit Findings

If any audit, monitoring, investigations, review of awards, or other compliance review reveals any discrepancies, inadequacies, or deficiencies which are necessary to correct in order to maintain compliance with this Funding Agreement, applicable laws, regulations, or the subrecipient's obligations hereunder, the subrecipient agrees to propose and submit to TDEM a corrective action plan to correct such discrepancies or inadequacies within thirty (30) calendar days after the subrecipient's receipt of the findings. The subrecipient's corrective action plan is subject to the approval of TDEM.

The subrecipient understands and agrees that the subrecipient must make every effort to address and resolve all outstanding issues, findings, or actions identified by DOTIG, TDEM, or SAO through the corrective action plan or any other corrective plan. Failure to promptly and adequately address these findings may result in funds being withheld, other related requirements being imposed, or other sanctions and penalties. The subrecipient agrees to complete any corrective action approved by TDEM within the

time period specified by TDEM and to the satisfaction of TDEM, at the sole cost of the subrecipient. The subrecipient shall provide to TDEM periodic status reports regarding the subrecipient's resolution of any audit, corrective action plan, or other compliance activity for which the subrecipient is responsible.

3.4 Records Retention

- A. The subrecipient shall maintain appropriate audit trails to provide accountability for all expenditures of funds, reporting measures, and funds received from TDEM under this Funding Agreement. Audit trails maintained by the subrecipient will, at a minimum, identify the supporting documentation prepared by the subrecipient to permit an audit of its accounting systems and payment verification with respect to the expenditure of any funds awarded under this Funding Agreement.
- B. The subrecipient must maintain fiscal records and supporting documentation for all expenditures resulting from this Funding Agreement pursuant to applicable statutory and regulatory requirements and state law.
 - 1. The subrecipient must retain these records and any supporting documentation for a minimum of seven (7) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit.
 - 2. Records related to real property and equipment acquired with CRF funds shall be retained for seven (7) years after final disposition.
 - 3. TDEM may direct a subrecipient to retain documents for longer periods of time or to transfer certain records to TDEM or federal custody when it is determined that the records possess long term retention value.

4 Prohibited and Regulated Activities and Expenditures

4.1 Prohibited Costs

- A. Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Revenue replacement is not a permissible use of these funds. In accordance with Section 3.1 all record and expenditures are subject to review.
- B. Damages covered by insurance.
- C. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
- D. Duplication of benefits including expenses that have been or will be reimbursed under any other federal program.
- E. Reimbursement to donors for donated items or services.
- F. Workforce bonuses other than hazard pay or overtime.
- G. Severance pay.
- H. Legal settlements.

4.2 Political Activities

Award funds may not be used in connection with the following acts by agencies or individuals employed by CRF funds:

- A. Unless specifically authorized to do so by federal law, funding recipients or their subrecipients or contractors are prohibited from using CRF funds directly or indirectly for political purposes, including lobbying or advocating for legislative programs or changes; campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties; and voter registration or get-out-the-vote campaigns. Generally, organizations or entities which receive federal funds by way of grants, contracts, or cooperative agreements do not lose their rights as organizations to use their own, private, non-federal resources for “political” activities because of or as a consequence of receiving such federal funds. These recipient organizations must thus use private or other non-federal money, receipts, contributions, or dues for their political activities, and may not charge off to or be reimbursed from federal contracts or grants for the costs of such activities.
- B. CRF officials or CRF-funded employees may not use official authority or influence or permit the use of a program administered by the subrecipient agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.
- C. CRF-funded employees may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose.
- D. CRF funds may not be used to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 of the Government Code to register as a lobbyist. Furthermore, CRF funds may not be used to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 of the Government Code to register as a lobbyist.
- E. As applicable, the subrecipient and each contracting tier will comply with 31 USC § 1352, which provides that none of the funds provided under an award may be expended by the subrecipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal. Subrecipient shall file the required certification attached hereto and incorporated for all purposes as Exhibit D. Each contracting tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

4.3 Civil Rights

- A. Subrecipient agrees to comply with state and federal anti-discrimination laws, including:
 - (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
 - (ii) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
 - (iii) Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
 - (iv) Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
 - (iv) Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);

- (v) Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
- (vii) The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this AGREEMENT.

Subrecipient agrees to comply with all amendments to these laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any service or other benefit provided by Federal or State funding, or otherwise be subjected to discrimination.

- B. Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. Civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Subrecipient agrees to take reasonable steps to provide services and information, both orally and in writing and electronically, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- C. In particular, subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- D. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- E. Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- F. Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- G. Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- H. In the event of subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Funding Agreement may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- I. Subrecipient will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Subrecipient will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

5 Financial Requirements

5.1 Direct Deposit

A completed direct deposit form from the subrecipient must be provided to TDEM prior to receiving any payments. The direct deposit form, which is attached hereto and incorporated for all purposes as Exhibit E, and is also currently available at https://tdem.texas.gov/wp-content/uploads/2019/08/Tx_DDForm_74-176.pdf.

5.2 Payments and Required Documentation

Funding for this Funding Agreement is appropriated under the Coronavirus Aid, Relief, and Economic Security Act, 2020 (Public Law 116-136) enacted on March 27, 2020, as amended, to facilitate protective measures for and recovery from the public health emergency in areas affected by COVID-19, which are Presidentially declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). All expenditures under this Funding Agreement must be made in accordance with this Funding Agreement and any other applicable laws, rules or regulations. Further, subrecipient acknowledges that all funds are subject to recapture and repayment for non-compliance pursuant to Section 5.7 below.

Payment of funds on projects may be initiated by the subrecipient through a Request for Reimbursement (RFR) in GMS.

If sufficient progress is not made towards expenditure of funding and/or the subrecipient fails to meet financial reporting obligations, TDEM may implement sanctions as necessary up to and including Funding Agreement termination.

All documentation for expenditures paid during the project period must be submitted to TDEM on or before the funding liquidation date.

5.3 Funds Limited by Agreement and Subject to Availability

The subrecipient agrees that nothing in this award will be interpreted to create an obligation or liability of TDEM in excess of the funds delineated in this award. The subrecipient agrees that funding for this award is subject to the actual receipt by TDEM of CRF funds (state and/or federal) appropriated for the funding program. The subrecipient agrees that the awarded funds, if any, received from TDEM may be limited by the term of each state biennium and by specific appropriation authority to and the spending authority of TDEM for the purpose of this award. The subrecipient agrees that notwithstanding any other provision of this award, if TDEM does not receive the appropriated funds for this funding program, or if the funds appropriated for this funding program are required to be reallocated to fund other federal or state programs or purposes, TDEM is not liable to pay the subrecipient the amount specified in the funding award or any other remaining balance of unpaid funds. If TDEM or the program fund becomes subject to legislative change, revocation of statutory authority, lack of appropriated funds, or unavailability of funds which would render performance under this Funding Agreement impossible, this Funding Agreement may be immediately terminated without recourse, liability, or penalty against TDEM upon written notice to subrecipient.

5.4 Financial Reporting

Financial reports must be submitted to TDEM when requested. The final financial report must be submitted to TDEM on or before the funding liquidation date or the funds may lapse.

5.5 Reimbursements

TDEM will be obligated to reimburse the subrecipient for the expenditure of actual and allowable allocable costs incurred and paid by the subrecipient pursuant to this Funding Agreement. TDEM is not obligated to pay unauthorized costs incurred by the subrecipient that are not consistent with the provisions of this Funding Agreement.

5.6 Refunds and Deductions

If TDEM determines that the subrecipient has been overpaid any funds under this Funding Agreement, including payments made inadvertently or payments made but later determined to not be actual and allowable allocable costs, the subrecipient shall return to TDEM the amount identified by TDEM as an overpayment. The subrecipient shall refund any overpayment to TDEM within thirty (30) calendar days of the receipt of the notice of the overpayment from TDEM unless an alternate payment plan is specified by TDEM. Refunds may be remitted to: Texas Division of Emergency Management, P.O. Box 15467, Austin, Texas 78761.

5.7 Recapture of Funds

The discretionary right of TDEM to terminate for convenience under Section 1.13 notwithstanding, TDEM shall have the right to terminate the Funding Agreement and to recapture, and be reimbursed for any payments made by TDEM: (i) that are not allowed under applicable laws, rules, and regulations; or (ii) that are otherwise inconsistent with this Funding Agreement, including any unapproved expenditures.

5.8 Liquidation Period

Funds will liquidate 90 calendar days following the project period end date or on December 30, 2020, whichever is earlier. Funds not obligated by the end of the period of performance and not expended by the liquidation date will revert to TDEM.

5.9 Project Close Out

TDEM will close-out the Funding Agreement when it determines that all applicable administrative actions and all required work have been completed by the subrecipient.

The subrecipient must submit all financial, performance, and other reports as required by the terms and conditions of the funding award.

The subrecipient must promptly refund any balances of unobligated cash that TDEM paid and that are not authorized to be retained by the subrecipient for use in other projects.

[EXHIBITS AND SIGNATURE PAGE FOLLOWS]

EXHIBIT B – STATE OF TEXAS ASSURANCES

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. Shall comply with Texas Government Code, Chapter 573, by ensuring that no officer, employee, or member of the subrecipient's governing body or of the subrecipient's contractor shall vote or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person who shall have been continuously employed for a period of two years, or such other period stipulated by local law, prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.
2. Shall insure that all information collected, assembled, or maintained by the subrecipient relative to a project will be available to the public during normal business hours in compliance with Texas Government Code, Chapter 552, unless otherwise expressly prohibited by law.
3. Shall comply with Texas Government Code, Chapter 551, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.
4. Shall comply with Section 231.006, Texas Family Code, which prohibits payments to a person who is in arrears on child support payments.
5. Shall not contract with or issue a license, certificate, or permit to the owner, operator, or administrator of a facility if the subrecipient is a health, human services, public safety, or law enforcement agency and the license, permit, or certificate has been revoked by another health and human services agency or public safety or law enforcement agency.
6. Shall comply with all rules adopted by the Texas Commission on Law Enforcement pursuant to Chapter 1701, Texas Occupations Code, or shall provide the awarding agency with a certification from the Texas Commission on Law Enforcement that the agency is in the process of achieving compliance with such rules if the subrecipient is a law enforcement agency regulated by Texas Occupations Code, Chapter 1701.
7. Shall follow all assurances. When incorporated into a funding award or contract, standard assurances contained in the application package become terms or conditions for receipt of funds. Administering state agencies and subrecipients shall maintain an appropriate contract administration system to insure that all terms, conditions, and specifications are met. (See UGMS Section __.36 for additional guidance on contract provisions).
8. Shall comply with the Texas Family Code, Section 261.101, which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Subrecipient shall also ensure that all program personnel are properly trained and aware of this requirement.
9. Shall comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990 including Titles I, II, and III of the Americans with Disability Act which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities, 44 U.S.C. §§ 12101-12213; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this Funding Agreement.
10. Shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally assisted construction subagreements.
11. Shall comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Shall comply with the provisions of the Hatch Political Activity Act (5 U.S.C. §§7321-29), which limit the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.

13. Shall comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.
14. Shall insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal awarding agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA (EO 11738).
15. Shall comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.
16. Shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
17. Shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
18. Shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
19. Shall comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.
20. Shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.
21. Shall comply with the Pro-Children Act of 1994 (Public Law 103-277), which prohibits smoking within any portion of any indoor facility used for the provision of services for children.
22. Shall comply with all federal tax laws and are solely responsible for filing all required state and federal tax forms.
23. Shall comply with all applicable requirements of all other federal and state laws, executive orders, regulations, and policies governing this program.
24. And its principals are eligible to participate and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and it is not listed on a state or federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement have Exclusions listed at <https://www.sam.gov/portal/public/SAM/>.
25. Shall adopt and implement applicable provisions of the model HIV/AIDS work place guidelines of the Texas Department of Health as required by the Texas Health and Safety Code, Ann., Sec. 85.001, et seq.
26. Shall comply with the Drug-Free Workplace Rules established by the Texas Worker's Compensation Commission effective April 17, 1991.

EXHIBIT C – CARES ACT CORONAVIRUS RELIEF FUND ELIGIBILITY CERTIFICATION

Local Education Agencies

I, _____, am the designated official of _____

("Subrecipient"/"LEA"/"Local Education Agency"), and I certify that:

1. I have the authority on behalf of Subrecipient to request payments from the State of Texas ("State") for federal funds appropriated pursuant to section 601 of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020).
2. I understand that the State will rely on this certification as a material representation in making payments to the Subrecipient.
3. I acknowledge that Subrecipient should keep records sufficient to demonstrate that the expenditure of funds it has received is in accordance with section 601(d) of the Social Security Act.
4. I acknowledge that all records and expenditures are subject to audit by the United States Department of Treasury's Inspector General, the Texas Division of Emergency Management, and the Texas State Auditor's Office, or designee.
5. I acknowledge that Subrecipient has an affirmative obligation to identify and report any duplication of benefits. I understand that the State has an obligation and the authority to deobligate or offset any duplicated benefits.
6. I acknowledge and agree that Subrecipient shall be liable for any costs disallowed pursuant to financial or compliance audits of funds received.
7. I acknowledge that if Subrecipient has not used funds it has received to cover costs that were incurred by May 20, 2020, as required by the statute, those funds must be returned to the United States Department of the Treasury.
8. I acknowledge that the Subrecipient's proposed uses of the funds provided as payments from the State by federal appropriation under section 601 of the Social Security Act will be used only to cover those costs that:
 - a. are necessary expenditures incurred due to the public health emergency and governor's disaster declaration on March 13, 2020 with respect to the Coronavirus Disease 2019 (COVID-19);
 - b. were not accounted for in the budget most recently approved as of March 27, 2020, for Subrecipient; and
 - c. were incurred during the period that begins on March 1, 2020 and ends on May 20, 2020.

In addition to each of the statements above, I acknowledge on submission of this certification that my jurisdiction has incurred eligible expenses between March 1, 2020 and May 20, 2020.

By: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT D - CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, Cooperative Agreements, and Other Federal Financial Assistance

The undersigned subrecipient, _____, certifies, to the best of his or her knowledge that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal award, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, award, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, award, loan or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subawards, and contracts under awards, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. Sec. 1352 (as amended by the Lobbying Disclosure Act of 119). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The subrecipient, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, subrecipient understands and agrees that the provisions of 31 U.S.C. Sec. 3801 *et seq.* apply to his certification and disclosure, if any.

By: _____

Signature: _____

Title: _____

Date: _____

Please initial by each Exhibit, acknowledging you have received them, understand them, and agree to abide by them.

_____ Federal Assurances, hereinafter referred to as "Exhibit A"

_____ State of Texas Assurances, hereinafter referred to as "Exhibit B"

_____ CARES Act Coronavirus Relief Fund Eligibility Certification, hereinafter referred to as "Exhibit C"

_____ Certification Regarding Lobbying, hereinafter referred to as "Exhibit D"

Please sign below to acknowledged acceptance of the award and all exhibits in this Funding Agreement, and to abide by all terms and conditions.

By: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT E - DIRECT DEPOSIT AUTHORIZATION FORM

 Comptroller of Public Accounts FORM 74-176 (Rev.4-14/18)

For Comptroller's Use Only		

Direct Deposit Authorization

This form may be used by vendors, individual recipients or state employees to receive payments from the state of Texas by direct deposit or to change/cancel existing direct deposit information.

Transaction Type

SECTION 1	<input type="checkbox"/> New setup (Sections 2, 3, 5 and 6)	<input type="checkbox"/> Change account type (Sections 2, 3, 4, 5 and 6)
	<input type="checkbox"/> Change financial institution (Sections 2, 3, 4, 5 and 6)	<input type="checkbox"/> Cancellation (Sections 2 and 6 - Sections 7 and 8 for state agency use)
	<input type="checkbox"/> Change account number (Sections 2, 3, 4, 5 and 6)	

Payee Identification

SECTION 2	Payee type	<input type="checkbox"/> Texas Identification Number (TIN)	<input type="checkbox"/> Individual Taxpayer Identification Number (ITIN)	Mail code (If not known, leave blank.)
	<input type="checkbox"/> State employee	<input type="checkbox"/> Employer Identification Number (EIN)		
	<input type="checkbox"/> Vendor or other recipient	<input type="checkbox"/> Social Security Number (SSN)*		
	Payee name		Phone number	
			ext.	
	Mailing address	City	State	ZIP code

New Account Information (Setups and Changes) (Completion by financial institution is recommended.)

SECTION 3	Financial institution name		City	State
	Routing transit number (9 digits)		Customer account number (maximum 17 characters)	
	Financial representative name (optional)		Title (optional)	
	Financial representative signature (optional)		Phone number (optional)	Date (optional)
			ext.	

Existing Account Information (Changes Only)

SEC 4	Routing transit number (9 digits)	Customer account number (maximum 17 characters)	Type of account
			<input type="checkbox"/> Checking <input type="checkbox"/> Savings

International Payments Verification (required)

SEC 5	Will these payments be forwarded to a financial institution outside the United States?.....	<input type="checkbox"/> YES	<input type="checkbox"/> NO
	<i>If "YES," also complete the ACH (Direct Deposit) Payment Destination Confirmation (Form 74-227).</i>		

Authorization for Setup, Changes or Cancellation (required)

SECTION 6	I authorize the Texas Comptroller of Public Accounts to deposit my payments from the state of Texas to my financial institution electronically. I understand that the Texas Comptroller of Public Accounts will reverse any payments made to my account in error. I further understand that the Texas Comptroller of Public Accounts will comply at all times with the National Automated Clearing House Association's rules. (For further information on these rules, please contact your financial institution.)		
	 Authorized signature	Printed name	Date

Cancellation by Agency (for state agency use)

SEC 7	Reason	Date

Authorized Signature (for state agency use)

SECTION 8	 Signature	Date
	Phone number	Agency number
		ext.
	Agency name	
	Comments	

Please return your completed form to:
 TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
 Fiscal Management - Direct Deposit Program
 P.O. Box 13528
 Austin, TX 78711-3528
 FAX: 512-475-5424 Phone: 512-936-8138

EXHIBIT E - DIRECT DEPOSIT AUTHORIZATION FORM

Form 74-176 (Back)(Rev.4-14/18)

Instructions for Direct Deposit Authorization

You have certain rights under Chapters 552 and 559, Government Code, to review, request and correct information we have on file about you. To request information for review or to request error correction, use the contact information on this form.

Section 1: Transaction Type

Select the appropriate transaction type(s).

Section 2: Payee Identification

Select payee type, provide the Texas Identification Number (TIN), Employer Identification Number (EIN) Social Security Number (SSN)* or Individual Taxpayer Identification Number (ITIN) and enter payee contact information.

***Federal Privacy Act Statement**

Disclosure of your Social Security number is required and authorized under law, for the purpose of tax administration and identification of any individual affected by applicable law, 42 U.S.C. sec. 405(c)(2)(C)(i); Texas Govt. Code Sections 403.011, 403.056, and 403.078. Release of information on this form in response to a public information request will be governed by the Public Information Act, Chapter 552, Government Code, and applicable federal law.

Section 3: New Account Information (Needed for setups and changes)

Completion by financial institution is recommended.

Important: Your direct deposit account information may be different from the account information printed on your checks. It is recommended that you contact your financial institution to confirm your direct deposit account information.

Prenote Test:

A prenote test will be sent to your financial institution for the account information provided. The prenote test is for a period of six banking days, and it is sent to your financial institution to verify your account information. If no further action is required by your financial institution, your direct deposit instructions will become effective when the six banking day prenote time frame has expired.

Section 4: Existing Account Information (Needed for changes to existing account information)

When requesting a change to your existing direct deposit account information, you must complete Section 4 with the existing account information for verification purposes. This measure will help the paying state agency verify accuracy of the requested change.

Any change to banking information begins a prenote test period. See explanation in Section 3, above.

Section 5: International Payments Verification

Check "YES" or "NO" to indicate if direct deposit payments to the account information designated in Section 3 of this form will be forwarded to a financial institution outside the United States. If "YES," also complete the ACH (Direct Deposit) Payment Destination Confirmation (Form 74-227).

Section 6: Authorization for Setup, Changes or Cancellation

Must be completed in its entirety, and no alterations to the authorization language will be accepted.

For State Agency Use

Section 7: Cancellation by Agency

Provide reason for cancellation request.

Section 8: Authorized Signature

For state agency use only.

EXHIBIT F - DESIGNATED SUBRECIPIENT AGENT FORM
Texas Division of Emergency Management
Designation of Subrecipient Agent

Primary Contacts	
Subrecipient:	
Disaster Number(s):	Grant Program:
Primary Agent Serves as the primary point of contact for projects.	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	The Primary Agent will have full GMS access
Secondary Agent Serves as the secondary point of contact for projects.	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	The Secondary Agent will have full GMS access
Primary Finance Agent Serves as the primary point of contact for financial matters.	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	The Primary Finance Contact will have full GMS access
Certifying Official Serves as the official representative of the organization. Must possess the authority to obligate funds & enter into contracts for the organization.	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	GMS Access (pick 1) Full <input type="checkbox"/> Read Only <input type="checkbox"/> None <input type="checkbox"/>
<i>The above Primary and Secondary Agents are hereby authorized to execute and file the application on behalf of this organization for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act or the CARES Act. Primary Financial Agent and the Certifying Official are authorized to represent and act for this organization in all financial operations pertaining to this award with the State of Texas. The Primary Agent will have authority to add or remove users within the Texas Division of Emergency Management (TDEM) Grant Management System (GMS) for all funding.</i>	
*Note: All email addresses must be unique to user	

Signature of Certifying Official

(Must be a Mayor, Judge, or Executive Director with the authority to obligate funds & enter into contracts for the organization)

Print Name

Date

Texas Division of Emergency Management Designation of Subrecipient Agent

Alternate Contacts (Optional)	
Subrecipient:	
Disaster Number(s):	Grant Program:
Alternate Contact List any additional contact here	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	GMS Access (pick 1) Full <input type="checkbox"/> Read Only <input type="checkbox"/> None <input type="checkbox"/>
If this contact replaces an existing contact, write their name below. Otherwise, leave blank or mark N/A	
Alternate Contact List any additional contact here	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	GMS Access (pick 1) Full <input type="checkbox"/> Read Only <input type="checkbox"/> None <input type="checkbox"/>
If this contact replaces an existing contact, write their name below. Otherwise, leave blank or mark N/A	
Alternate Contact List any additional contact here	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	GMS Access (pick 1) Full <input type="checkbox"/> Read Only <input type="checkbox"/> None <input type="checkbox"/>
If this contact replaces an existing contact, write their name below. Otherwise, leave blank or mark N/A	
Alternate Contact List any additional contact here	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	GMS Access (pick 1) Full <input type="checkbox"/> Read Only <input type="checkbox"/> None <input type="checkbox"/>
If this contact replaces an existing contact, write their name below. Otherwise, leave blank or mark N/A	
Alternate Contact List any additional contact here	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	GMS Access (pick 1) Full <input type="checkbox"/> Read Only <input type="checkbox"/> None <input type="checkbox"/>
If this contact replaces an existing contact, write their name below. Otherwise, leave blank or mark N/A	
Alternate Contact List any additional contact here	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	GMS Access (pick 1) Full <input type="checkbox"/> Read Only <input type="checkbox"/> None <input type="checkbox"/>
If this contact replaces an existing contact, write their name below. Otherwise, leave blank or mark N/A	
Alternate Contact List any additional contact here	
Name:	Office Number:
Position/Job Title:	Fax Number:
Organization/employer:	Cell Number:
Email*	GMS Access (pick 1) Full <input type="checkbox"/> Read Only <input type="checkbox"/> None <input type="checkbox"/>
If this contact replaces an existing contact, write their name below. Otherwise, leave blank or mark N/A	
<i>Additional Contacts are authorized to represent and act for this organization in all operations pertaining to this grant with the State of Texas.</i>	
*Note: All email addresses must be unique to user	

Signature of Certifying Official

(Must be a Mayor, Judge, or Executive Director with the authority to obligate funds & enter into contracts for the organization)

Print Name

Date

Instructions:

- The Designation of Subrecipient Agent (DSA) form is divided into two pages, the Primary Contacts page and the optional Alternate Contacts page. The second page is not required if there are no additional contacts to list.
- In the header of the document, list the name of the subrecipient (the organization applying for the grant), as well as the disaster numbers and grant program this DSA applies to (the disaster number is 4 digits long and assigned by FEMA. For example, Hurricane Harvey is 4332. The grant program is either PA for Public Assistance, SPA for State Public Assistance or HMGP for Hazard Mitigation Grant Program.)
- Multiple disasters may be listed on one DSA as long as specific disaster numbers are indicated.
- None of the positions on the primary contact page may be left blank. However, the same person may hold multiple positions. Contacts may be left blank on the additional contact page.
- If a third-party consultant/contractor is listed on the DSA, the agency that they are employed by should be listed in the Organization/Employer field.
- All contacts require a unique email address. Additionally, contacts on the DSA cannot share the same email address.
- All contacts must have a phone number listed.
- Granting a contact full Grants Management System (GMS) access will allow them to perform tasks such as submitting quarterly reports and requesting reimbursements, time extensions and scope/cost modifications within the State of Texas Grant Management System on behalf of the subrecipient. Granting a contact Read Only access will allow a contact to view information in GMS, but they will not be able to edit any existing information themselves.
- The Primary, Secondary, and Finance Agents will always be granted full GMS access for all grants within the program selected.
- The subrecipient can request that GMS access be added or revoked from a contact at any time if the need arises.
- The Certifying Official must be an individual who possesses the authority to obligate funds and enter into contracts on behalf of the subrecipient.
- Both pages, if applicable, of the DSA must be signed and dated by the certifying official.
- If a new DSA is submitted with a different person listed for a position on the primary contact sheet, the old contact holding that position will be removed. If a new contact is added on the additional contacts page, no old contacts will be removed unless they are specified in the field provided.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

EXHIBIT G - IRS W-9 FORM

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*

For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

EXHIBIT H - CHECKLIST

 TDEM THE TEXAS A&M UNIVERSITY SYSTEM	CHECKLIST
Documentation Required for Request for Assistance Submission	
<input type="checkbox"/> Executed LEA Terms and Conditions (Exhibits A, B, C, D)	
<input type="checkbox"/> Direct Deposit Authorization Form (Exhibit E)	
<input type="checkbox"/> Designation of Subrecipient Agent Form (Exhibit F)	
<input type="checkbox"/> IRS W-9 Form (Exhibit G)	
Next Steps	
<input type="checkbox"/> Ensure SAM.gov registration is active and all entity details are current	
<input type="checkbox"/> Attend TDEM Grant Management System Training	
<input type="checkbox"/> Initiate Request for Assistance within TDEM Grants Management System	
<input type="checkbox"/> Attend TDEM Applicant Briefing for Coronavirus Relief Fund (LEA)	