



CANCER PREVENTION & RESEARCH
INSTITUTE OF TEXAS

§703.13 Audits and Investigations

(a) Upon request and with reasonable notice, an entity receiving Grant Award funds directly under the Grant Contract or indirectly through a subcontract under the Grant Contract shall allow, or shall cause the entity that is maintaining such items to allow the Institute, or auditors or investigators working on behalf of the Institute, including the State Auditor and/or the Comptroller of Public Accounts for the State of Texas, to review, inspect, audit, copy or abstract its records pertaining to the specific Grant Contract during the term of the Grant Contract and for the three year period following the date the last disbursement of funds is made by the Institute or all reports required pursuant to the Grant Contract are submitted and approved, whichever date is later.

(1) A Grant Recipient shall maintain its records pertaining to the specific Grant Contract for a period of three years following the date the last disbursement of funds is made by the Institute or all reports required pursuant to the Grant Contract are submitted and approved, whichever date is later.

(2) The Grant Recipient may maintain its records in either electronic or paper format.

(b) Notwithstanding the foregoing, the Grant Recipient shall submit a single audit determination form no later than 60 days following the close of the Grant Recipient's fiscal year. The Grant Recipient shall report whether the Grant Recipient has expended **\$1 million** [~~\$750,000~~] or more in state awards during the Grant Recipient's fiscal year. If the Grant Recipient has expended **\$1 million** [~~\$750,000~~] or more in state awards in its fiscal year, the Grant Recipient shall obtain either an annual single independent audit, a program specific independent audit, or an agreed upon procedures engagement as defined by the American Institute of Certified Public Accountants and pursuant to guidance provided in subsection (e) of this section.

(1) The audited time period is the Grant Recipient's fiscal year.

(2) The audit must be submitted to the Institute within thirty (30) days of receipt by the Grant Recipient but no later than nine (9) months following the close of the Grant Recipient's fiscal year and shall include a corrective action plan that addresses any weaknesses, deficiencies, wrongdoings, or other concerns raised by the audit report and a summary of the action taken by the Grant Recipient to address the concerns, if any, raised by the audit report.

(A) The Grant Recipient may seek additional time to submit the required audit and corrective action plan by providing a written explanation for its failure to timely comply and providing an expected time for the submission.

(B) The Grant Recipient's request for additional time must be submitted on or before the due date of the required audit and corrective action plan. For purposes of this rule, the "due date of the required audit" is no later than nine (9) months following the close of the Grant Recipient's fiscal year.

(C) Approval of the Grant Recipient's request for additional time is at the discretion of the Institute. Such approval must be granted by the Chief Executive Officer.

(c) No reimbursements or advances of Grant Award funds shall be made to the Grant Recipient if the Grant Recipient is delinquent in filing the required audit and corrective action plan. A Grant Recipient that has received approval from the Institute for additional time to file the required audit and corrective action plan may receive reimbursements or advances of Grant Award funds during the pendency of the delinquency unless the Institute's approval declines to permit reimbursements or advances of Grant Award funds until the delinquency is addressed.

(d) A Grant Recipient that is delinquent in submitting to the Institute the audit and corrective action plan required by this section is not eligible to be awarded a new Grant Award or a continuation Grant Award until the required audit and corrective action plan are submitted. A Grant Recipient that has received approval from the Institute for additional time to file the required audit and corrective action plan may remain eligible to be awarded a new Grant Award or a continuation Grant Award unless the Institute's approval declines to continue eligibility during the pendency of the delinquency.

(e) For purposes of this rule, an agreed upon procedures engagement is one in which an independent certified public accountant is hired by the Grant Recipient to issue a report of findings based on specific procedures to be performed on a subject matter.

(1) The option to perform an agreed upon procedures engagement is intended for a non-profit or for-profit Grant Recipient that is not subject to Generally Accepted Government Audit Standards (also known as the Yellow Book) published by the U.S. Government Accountability Office.

(2) The agreed upon procedures engagement will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

(3) The certified public accountant is to perform procedures prescribed by the Institute and to report his or her findings attesting to whether the Grant Recipient records are in agreement with stated criteria.

(4) The agreed upon procedures apply to all current year expenditures for Grant Awards received by the Grant Recipient. Nothing herein prohibits the use of a statistical sample consistent with the American Institute of Certified Public Accountants' guidance regarding government auditing standards and 2 CFR Part 200, Subpart F, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

(5) At a minimum, the agreed upon procedures report should address:

- (A) Processes and controls;
- (B) The Grant Contract;
- (C) Indirect Costs;

- (D) Matching Funds, if appropriate;
- (E) Grant Award expenditures (payroll and non-payroll related transactions);
- (F) Equipment;
- (G) Revenue Sharing and Program Income;
- (H) Reporting; and
- (I) Grant Award closeout.

(6) The certified public accountant should consider the specific Grant Mechanism and update or modify the procedures accordingly to meet the requirements of each Grant Award and the Grant Contract reviewed.

(f) For purposes of this rule, a program specific audit should address:

- (1) Sample of awards;
- (2) Reporting;
- (3) Indirect costs;
- (4) Matching funds, if appropriate;
- (5) Expenditures;
- (6) Expenditure Reporting;
- (7) Personnel Level of Effort Reporting;
- (8) Grant Closeout;
- (9) Performance Measures;
- (10) Publications and Acknowledgements;
- (11) Title to equipment;
- (12) Contract certifications;
- (13) Changes in Principal Investigator or Program Director;
- (14) Intellectual Property and revenue sharing;
- (15) Early termination and event of default; and

(16) Any other issue identified by the Institute, the Grant Recipient, or the person performing the program specific audit.

(g) If a deadline set by this rule falls on a Saturday, Sunday, or federal holiday as designated by the U.S. Office of Personnel Management, the required filing may be submitted on the next

business day. The Institute will not consider a required filing delinquent if the Grant Recipient complies with this subsection.

§703.26 Allowable Costs

(a) A cost is an Allowable Cost and may be charged to the Grant Award if it is reasonable, allocable, and adequately documented.

(1) A cost is reasonable if the cost does not exceed that which would be incurred by a prudent individual or organization under the circumstances prevailing at the time the decision was made to incur the cost; and is necessary for the performance of the Grant Award defined in the Scope of Work in the Grant Contract.

(2) A cost is allocable if the cost:

(A) Benefits the Grant Award either directly or indirectly, subject to Indirect Cost limits stated in the Grant Contract;

(B) Is assigned the Grant Award in accordance with the relative benefit received;

(C) Is allowed or not prohibited by state laws, administrative rules, contractual terms, or applicable regulations;

(D) Is not included as a cost or used to meet Matching Fund requirements for any other Grant Award in either the current or a prior period; and

(E) Conforms to any limitations or exclusions set forth in the applicable cost principles, administrative rules, state laws, and terms of the Grant Contract.

(3) A cost is adequately documented if the cost is supported by the organization's accounting records and documented consistent with §703.24 of this title (relating to Financial Status Reports).

(b) Grant Award funds must be used for Allowable Costs as provided by the terms of the Grant Contract, Chapter 102, Texas Health and Safety Code, the Institute's administrative rules, and the Texas Grant Management Standards (TxGMS) adopted by the Comptroller's Office. If guidance from ~~TxGMS [the Uniform Grant Management Standards]~~ on a particular issue conflicts with a specific provision of the Grant Contract, Chapter 102, Texas Health and Safety Code or the Institute's administrative rules, then the Grant Contract, statute, or Institute administrative rule shall prevail.

(c) An otherwise Allowable Cost will not be eligible for reimbursement if the Grant Recipient incurred the expense outside of the Grant Contract term, unless the Grant Recipient has received written approval from the Institute's Chief Executive Officer to receive reimbursement for expenses incurred prior to the effective date of the Grant Contract.

(d) An otherwise Allowable Cost will not be eligible for reimbursement if the benefit from the cost of goods or services charged to the Grant Award is not realized within the applicable term of

the Grant Award. The Grant Award should not be charged for the cost of goods or services that benefit another Grant Award or benefit a period prior to the Grant Contract effective date or after the termination of the Grant Contract.

(e) Grant Award funds shall not be used to reimburse unallowable expenses, including, but not limited to:

- (1) Bad debt, such as losses arising from uncollectible accounts and other claims and related costs.
- (2) Contributions to a contingency reserve or any similar provision for unforeseen events.
- (3) Contributions and donations made to any individual or organization.
- (4) Costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation and gratuities.
- (5) Costs relating to food and beverage items, unless the food item is related to the issue studied by the project that is the subject of the Grant Award.
- (6) Fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, local or Indian tribal laws and regulations.
- (7) An honorary gift or a gratuitous payment.
- (8) Interest and other financial costs related to borrowing and the cost of financing.
- (9) Legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction.
- (10) Liability insurance coverage.
- (11) Benefit replacement pay or legislatively-mandated pay increases for eligible general revenue-funded state employees at Grant Recipient state agencies or universities.
- (12) Professional association fees or dues for an individual employed by the Grant Recipient. Professional association fees or dues for the Grant Recipient's membership in business, technical, and professional organizations may be allowed, with prior approval from the Institute, if:
 - (A) the professional association is not involved in lobbying efforts; and
 - (B) the Grant Recipient demonstrates how membership in the professional association benefits the Grant Award project(s).
- (13) Promotional items and costs relating to items such as T-shirts, coffee mugs, buttons, pencils, and candy that advertise or promote the project or Grant Recipient.

(14) Fees for visa services.

(15) Payments to a subcontractor if the subcontractor working on a Grant Award project employs an individual who is a Relative of the Principal Investigator, Program Director, Company Representative, Authorized Signing Official, or any person designated as Key Personnel for the same Grant Award project (collectively referred to as "affected Relative"), and the Grant Recipient will be paying the subcontractor with Grant Award funds for any portion of the affected Relative's salary or the Relative submits payment requests on behalf of the subcontractor to the Grant Recipient for payment with Grant Award funds.

(A) For exceptional circumstances, the Institute's Chief Executive Office may grant an exception to allow payment of Grant Award funds if the Grant Recipient notifies the Institute prior to finalizing the subcontract. The Chief Executive Officer must notify the Oversight Committee in writing of the decision to allow reimbursement for the otherwise unallowable expense.

(B) Nothing herein is intended to supersede a Grant Recipient's internal policies, to the extent that such policies are stricter.

(16) Fundraising.

(17) Tips or gratuities.

(18) Reimbursements to employees for their out-of-pocket health insurance premium or other health care expenses which are not made through an employer-sponsored plan established under Section 105 of the Internal Revenue Code.

(f) Pursuant to Texas Health and Safety Code Section 102.203(b) the Institute may authorize reimbursement for one or more of the following expenses incurred by a cancer clinical trial participant that are associated with participating in a clinical trial and included in the Grant Recipient's Approved Budget:

(1) transportation, including car mileage, parking, bus fare, taxi or ride hailing fare exclusive of tips, and commercial economy class airfare within the borders of the State of Texas;

(2) lodging; and

(3) any cost reimbursed under a cancer clinical trial participation program established pursuant to Texas Health and Safety Code Chapter 51 (relating to Cancer Clinical Trial Participation Program).

(g) The Institute is responsible for making the final determination regarding whether an expense shall be considered an Allowable Cost.