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Student Representative, Ex-Officio
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TEXAS HIGHER EDUCATION COORDINATING BOARD

Committee on Agency Operations

1200 EAST ANDERSON LANE, BOARD ROOM 1.170
AUSTIN, TEXAS

April 24, 2019; 2:00 p.m.

PUBLIC TESTIMONY: The presiding chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the Board after staff has presented the item, or any other time. For procedures on testifying, please go to http://www.theccb.state.tx.us/public_testimony.

- I. Welcome and Committee Chair's Opening Remarks**
- II. Consideration of Approval of the Minutes from January 23, 2019, Committee Meeting**
- III. Public Testimony on agenda items relating to the Committee on Agency Operations**
- IV. Agency Operations**
 - A. Report on grants and contracts
 - B. Consideration of adopting the staff's recommendation to the Committee relating to amending the Board Operating Policies and Procedures
 - C. Consideration of adopting the Commissioner's recommendation to the Committee relating to a proposed new subsection to Chapter 1, Subchapter A, Section 1.16 of Board rules concerning Agency Administration (Contracts, Including Grants, for Materials and/or Services)
 - D. Update on the Board's budget priorities for the 86th Legislative Session
- V. Finance**
 - A. Review of the Fiscal Year 2019 Financial Report to the Board
 - B. Consideration of adopting a resolution authorizing the issuance of State of Texas College Student Loan Bonds in one or more series to refund the 2009 bond series; and delegation of the authority for administration and approval of the activities necessary to complete the sale of the private activity bonds

- C. Consideration of authorization to enter into an agreement with the Office of the Attorney General (OAG) to provide collection services for the agency's student loan program

VI. Internal Audit

- A. Discussion of Statements on Auditing Standards No. 114, The Auditor's Communication with Those Charged with Governance
- B. Discussion of the State of Texas Federal Portion of the Statewide Single Audit for the Fiscal Year Ended August 31, 2018, Report Number 19-315 issued March 2019 by the Texas State Auditor's Office
- C. Update on Internal Audit Reports and Activities

VII. Compliance Monitoring

- A. Update on Compliance Monitoring Reports and Activities

VIII. Adjournment

The Texas Higher Education Coordinating Board Committee on Agency Operations may convene in Executive Session at any point in this meeting, concerning any item listed in the agenda or to seek or to receive its attorney's advice on legal matters related thereto, pursuant to Texas Government Code Ann. 551.071.

Note: The Board will not consider or act upon any item before the Committee on Agency Operations at this meeting. This meeting is not a regular meeting of the full Board. Because the number of Board members who may attend the committee meeting may create a quorum of the full Board, the meeting of the Committee on Agency Operations is also being posted as a meeting of the full Board.

Texas Penal Code Section 46.035(c) states: "A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter." Thus, no person can carry a handgun and enter the room or rooms where a meeting of the THECB is held if the meeting is an open meeting subject to Chapter 551, Government Code.

Please Note that this governmental meeting is, in the opinion of counsel representing THECB, an open meeting subject to Chapter 551, Government Code and THECB is providing notice of this meeting as required by Chapter 551. In addition, **please note** that the written communication required by Texas Penal Code Sections 30.06 and 30.07, prohibiting both concealed and open carry of handguns by Government Code Chapter 411 licensees, will be posted at the entrances to this governmental meeting.

Committee on Agency Operations

AGENDA ITEM I

Welcome and Committee Chair's Opening Remarks

Mr. John Steen, Chair of the Committee on Agency Operations, will provide the Committee an overview of the items on the agenda.

Committee on Agency Operations

AGENDA ITEM II

Consideration of Approval of the Minutes from January 23, 2019, Committee meeting

RECOMMENDATION: Approval

DRAFT
TEXAS HIGHER EDUCATION COORDINATING BOARD
Committee on Agency Operations

Wednesday, January 23, 2019; 2:00 p.m.

**Board Room, 1st Floor
Room 1.170**

1200 East Anderson Lane, Austin, Texas

The Committee on Agency Operations convened at 2:00 p.m. on January 23, 2019, with the following members present: John Steen, presiding; Ricky Raven; Javaid Anwar; Fred Farias; Michael Plank; Michelle Tran (Ex-Officio); and Stuart Stedman (Ex-Officio).

AGENDA ITEM	ACTION
I. Welcome and Committee Chair's Opening Remarks	Chair John Steen called the meeting of the Committee on Agency Operations to order.
II. Consideration of Approval of the Minutes from October 24, 2018, Committee Meeting	On a motion by Dr. Farias, seconded by Mr. Raven, the Committee approved the October 24, 2018, Agency Operations Committee meeting minutes.
III. Public Testimony on Agenda Items Relating to the Committee on Agency Operations	Five individuals registered for public testimony regarding Agenda Item VII-A (Coastal Bend College). The public testimony was heard with Agenda Item VII-A, and copies of the testimonies were provided to each Board member.
IV. Agency Operations	
A. Report on grants and contracts, including those exceeding \$1 million	Mr. Bill Franz, General Counsel was available for questions. This item did not require any action.
B. Update on the Board's Legislative Appropriations Request to the 86th Texas Legislature	Ms. Linda Battles, Deputy Commissioner for Agency Operations and Communications/Chief Operating Officer, provided an update on the Board's LAR and was available for questions. This item did not require any action.

AGENDA ITEM	ACTION
C. Consideration of adopting the staff's recommendation to the Committee relating to the acquisition of contract services for Phase I of the Identity and Access Management (IAM) Modernization Project	On a motion by Mr. Plank, seconded by Mr. Raven, the Committee approved the acquisition of contract services for Phase I of the Identity and Access Management Modernization Project. Ms. Zhenzhen Sun, Assistant Commissioner for Information Solutions and Services, presented this item to the Committee and was available for questions.
D. Consideration of adopting the Commissioner's recommendation to the Committee relating to the certification of gifts that are fundable through the Texas Research Incentive Program for the Emerging Research Universities	On a motion by Dr. Farias, seconded by Mr. Raven, the Committee approved the certification of gifts that are fundable through the Texas Research Incentive Program for the Emerging Research Universities. Dr. Julie Eklund, Assistant Commissioner for Strategic Planning and Funding, provided a presentation and was available for questions.
E. Consideration of adopting the staff's recommendation to the Committee relating to amending the Board Operating Policies and Procedures	After a brief discussion, the Committee deferred this item to the next meeting.
V. Finance	
A. Review of the Fiscal Year 2019 Financial Report to the Board	Mr. Ken Martin, Assistant Commissioner for Financial Services/CFO, presented this item to the Committee and was available for questions. This item did not require any action.
VI. Internal Audit	
A. Update on Internal Audit Reports and Activities	Mr. Mark Poehl, Director of Internal Audit and Compliance, presented this item to the Committee and was available for questions. This item did not require any action.

AGENDA ITEM	ACTION
VII. Compliance Monitoring	
<p>A. Update on Compliance Monitoring Reports and Activities</p>	<p>Mr. Mark Poehl, Director of Internal Audit and Compliance, presented this item to the Committee and was available for questions. This item did not require any action.</p> <p>Written testimony relating to Coastal Bend College (CBC) was read into the minutes by Mr. Steen. The testimonies were from Dr. Matilda Saenz, former Administrator at CBC; Dr. Elizabeth Simonson, former CBC faculty member; and Ms. Dela Castillo, former CBC Chief Financial Officer and current board member.</p> <p>Public testimony was heard from Dr. Beatriz Espinoza, President of CBC, and Ms. Stephanie Moreno, Bee County Judge.</p>
<p>B Consideration of adopting the staff's recommendation to the Committee relating to the Amended Risk-Based Compliance Monitoring Work Plan for Fiscal Year 2019</p>	<p>On a motion by Mr. Raven, seconded by Dr. Farias, the Committee approved the Amended Risk-Based Compliance Monitoring Work Plan for FY 2019. Mr. Mark Poehl, Director of Internal Audit and Compliance, presented this item to the Committee and was available for questions.</p>
VIII. Adjournment	<p>On a motion by Mr. Raven, seconded by Dr. Farias, the meeting adjourned at approximately 3:40 p.m.</p>

Committee on Agency Operations

AGENDA ITEM III

Public Testimony on agenda items relating to the Committee on Agency Operations

RECOMMENDATION: No action required

Background Information:

PUBLIC TESTIMONY: The presiding chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the Board after staff has presented the item, or any other time as determined by the presiding chair.

Committee on Agency Operations

AGENDA ITEM IV-A

Report on grants and contracts

RECOMMENDATION: No action required

Background Information:

This is the quarterly report on *Contracts Executed by the Agency in Accordance with Board Rule 1.16*. No contracts exceeded \$1 million.

Bill Franz, General Counsel, will be available for questions.

Committee on Agency Operations

Agenda Item IV-B

Consideration of adopting the staff's recommendation to the Committee relating to amending the Board Operating Policies and Procedures

RECOMMENDATION: Approval

Background Information:

At the direction of the Agency Operations Committee in 2014, Texas Higher Education Coordinating Board staff developed the Board Operating Policies and Procedures document, which was adopted by the Board in October of that year. This document includes the Board members' code of conduct, conflict of interest/ethics, duties/responsibilities, and protocol in communicating with the media, elected officials, institutional representatives, and students.

Staff is recommending changes to this document to better reflect how the current Board is operating in relation to: 1) accepting tickets, vouchers, or other forms of entry that typically have a cost of admission from an institution of higher education; and 2) conducting the annual performance evaluation and setting the annual compensation of the Commissioner of Higher Education and the Director of Internal Audit and Compliance. Recommended changes to the document are noted in red under IV-A.1. (page 7), IV-D.11. (page 10), and VI-C (page 15).

Linda Battles, Deputy Commissioner for Agency Operations and Communications/COO, and Bill Franz, General Counsel, will be available to answer questions.

BOARD OPERATING POLICIES AND PROCEDURES

~~January 2017~~ **April 2019**

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I. PREAMBLE

A. Purpose

The Texas Higher Education Coordinating Board (the Board or Agency) adopts and implements the Board Operating Policies and Procedures to achieve the following purposes:

1. To outline the Board's general powers and duties under Chapter 61, Subchapter B, of the Texas Education Code, and other applicable laws;
2. To outline procedural rules governing the Board pursuant to Chapter 61 of the Texas Education Code, and other applicable laws;
3. To apprise Board members of the standards of conduct and conflict of interest provisions applicable to their conduct pursuant to chapter 572 of the Texas Government Code; and
4. To adopt protocols that define how Board members communicate with the media, elected officials, institutional representatives, and students.

B. Goals

In exercising its powers and fulfilling its duties, the Board shall strive to:

1. Establish major visionary guiding policies affecting the state's higher education system;
2. Establish the goals that define the results that the Board seeks to achieve;
3. Serve as a link between the Agency and state policy makers;
4. Be accountable for its decisions and actions;
5. Maintain objectivity and a statewide perspective in considering matters that may come or are before it for decision;
6. Act in the best interests of students and the people of Texas;
7. Continually learn and work to enhance the Texas higher education system within the boundaries of statutory authority; and
8. Review the Board Operating Policies and Procedures each biennium.

C. Scope

These Board Operating Policies and Procedures apply to all activities conducted by the Board.

D. Responsibility for Implementation

The Board and its officers are responsible for ensuring the implementation and adherence to the Board Operating Policies and Procedures.

E. Nondiscrimination Policy

To the extent provided by applicable law, no person shall be excluded from participation in, denied the benefits of, or be subject to discrimination under, any program or activity sponsored or conducted by the Board, on the basis of race, color, national origin, religion, sex, age, veteran status, genetic information, or disability.

II. THE BOARD

A. Purpose

The Board represents the highest authority in the state in matters of public higher education and is charged with the duty to take an active part in promoting quality education throughout the state. The Board performs its duty by:

1. Representing the State of Texas in the coordination of all higher education in the state;
2. Setting policies that formulate the course for higher education in Texas;
3. Maintaining an objective, statewide perspective;
4. Ensuring the efficient and effective use of higher education resources and eliminating unnecessary duplication;
5. Making recommendations to improve the efficiency and effectiveness of transitions, including between high school and postsecondary education, between institutions of higher education for transfer purposes, and between postsecondary education and the workforce;
6. Administering programs and trusteed funds for financial aid and other grants as necessary to achieve the state's long-range goals and as directed by the legislature;
7. Determining educational questions according to educational measures;
8. Collecting and making accessible data on higher education in the state and analyzing that data to support policy recommendations;
9. Setting policies for institutional and program excellence by balancing access and quality;
10. Discouraging the initiation and continuation of programs of substandard quality;
11. Recognizing community and technical colleges as full partners in higher education; and
12. Being spokespersons for higher education in Texas – to encourage Texas institutions, to monitor and praise their progress, to support their steps towards excellence, and to applaud their imagination and initiative in imparting knowledge.

B. Board Composition

1. The Board is composed of 9 members and one non-voting student representative appointed by the governor to provide representation from all areas of the state with the advice and consent of the senate, and as the constitution provides.
2. A Board member may not be employed professionally for remuneration in the field of education during the member's term of office.

3. Members of the Board shall serve without pay but shall be reimbursed for their actual expenses incurred in attending meetings of the Board or in attending to other work of the Board when that other work is approved by the Board Chair.

C. Restrictions on Board Appointment, Membership and Employment

1. A Board member must be a representative of the general public. A person is not eligible for appointment as a member of the Board if the person or the person's spouse:
 - a. is employed by or participates in the management of a business entity or other organization regulated by the board or receiving funds from the board;
 - b. owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving funds from the board; or
 - c. uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.
2. A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:
 - a. the person is an officer, employee, or paid consultant of a Texas trade association (i.e. a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest) in the field of higher education; or
 - b. the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of higher education.
3. A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

D. Terms

1. Board members hold office for staggered terms of six years with terms of one-third of the members expiring on August 31 of each odd-numbered year.
2. In the event of a vacancy during a term of a member appointed by the governor due to resignation or other reason, the Governor shall appoint a replacement who meets the qualifications of the vacated office to fill the unexpired portion of the term.

E. Removal of Board Member

1. It is a ground for removal from the Board that a member:

- a. does not have at the time of taking office the qualifications required by Section TEC, 61.0222(a);
 - b. does not maintain during service on the board the qualifications required by TEC, Section 61.0222(a);
 - c. is ineligible for membership under TEC, Section 61.022 or 61.0222;
 - d. cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
 - e. is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.
2. The validity of an action of the Board is not affected by the fact that it is taken when a ground for removal of a board member exists.
 3. If the commissioner of higher education has knowledge that a potential ground for removal exists, the commissioner shall notify the Board Chair of the potential ground. The Board Chair shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the Board Chair, the commissioner shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

F. New Board Member Orientation

A new appointee to the Board shall be given an orientation to the activities and functions of the Board prior to being able to fully participate in a Board meeting. The New Board Member Orientation shall include the following topics:

- a. Agency mission, goals, objectives, and strategic plan;
- b. Agency organization, function, and powers and duties;
- c. Board member responsibilities, including the proper role of the member in policy making, deliberations, communications, and relations with the administrative staff of the Agency;
- d. Standards of conduct as public officials, including conflict-of-interest laws;
- e. Board meetings and other Board functions;
- f. Legislation that created the Board;
- g. Rules of the Board;
- h. Current budget of the agency;
- i. Results of the most recent formal audit of the agency;
- j. Texas open government laws, including information regarding mandatory training in open meetings and public information as required by the chapters 551 and 552 of the Texas Government Code;
- k. Travel reimbursement/per diem procedures and state regulations; and
- l. Other topics deemed appropriate by the Board Chair.

III. OFFICERS OF THE BOARD

The Governor shall designate a Board Chair and Vice Chair. The Board shall appoint a Secretary of the Board whose duties may be prescribed by law and by the Board.

IV. BOARD MEMBER CODE OF CONDUCT/CONFLICT OF INTEREST AND ETHICAL CONDUCT

A. Code of Conduct/Conflict of Interest. Board members shall adhere to the standards of conduct and conflict of interest provisions set out in section 572.051 of the Texas Government Code and other applicable laws. Pursuant to that section, a Board member must adhere to the following:

1. Not accept or solicit any gift, favor, or service that might reasonably tend to influence the Board member in the discharge of official duties or that the Board member knows or should know is being offered with the intent to influence the Board member's official conduct. **Note: Accepting tickets, vouchers, or other forms of entry that typically have a cost of admission, to an event hosted by an institution of higher education (e.g., football tickets) is allowed under state ethics laws so long as a representative of the donor institution is present.**

Please note that the appearance of accepting such tickets has been questioned in certain news media articles as potentially creating a conflict of interest for Board Members, and potentially influencing them to vote in favor of matters that may come before the Board from such institutions. To avoid any such appearance, it is recommended that Board Members planning to attend such an event should request an invoice for, and in turn pay, the base value of the tickets or other form of entry for that event.

2. Not accept employment or engage in a business or professional activity that the Board member might reasonably expect would require or induce the Board member to disclose confidential information acquired by reason of the official position;
3. Not accept employment or compensation that could reasonably be expected to impair the Board member's independence of judgment in the performance of the Board member's official duties;
4. Not accept an honorarium for services requested to be provided due to the Board member's official position or duties. This prohibition extends to an honorarium for in-state and out-of-state engagements if the Board member would not have been asked but for his/her official position. The honorarium may not be remitted to a third-party or tax-exempt charity if payment is made in consideration of the services performed and at the direction of the Board member. The Board member may accept food, transportation, and lodging when in connection with a conference or a similar event if within reason and, as required, reported in Section XI of her/his annual personal financial statement (Texas Penal Code, Section 36.07).
5. Not make personal investments that could reasonably be expected to create a substantial conflict between the Board member's private interest and the public interest;

6. Not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the Board member's official powers or performed the official duties in favor of another;
 7. Complete and file a personal financial statement with the Ethics Commission on or before April 30 each year if they served at any time beginning on January 1 and continuing through April 30 of that year (Texas Government Code § 572.026(a)). Newly appointed individuals must file a statement within 30 days of taking office.
 8. Complete the open government training as required by Government Code sections 551.005 and 552.012;
 9. Comply with the Open Meetings Act when communicating with other Board members outside of a posted meeting of the Board; and
 10. Seek counsel when confronted with a situation that the Board member believes may present a conflict of interest.
- B. Appropriated Funds and Official Authority. All Board members must adhere to Texas Government Code §556 in using appropriated money, but may engage in political activity to the widest extent consistent with the restrictions imposed by law.
1. The Board may not use any appropriated money under its control to finance or otherwise support the candidacy of a person for office. This prohibition extends to direct or indirect employment of a person to perform such actions.
 2. The Board may not use appropriated money to employ a person who is required by Chapter 305 to register as a lobbyist.
 3. Board members may not use their official authority for the purpose of affecting the result of an election, under the Code of Federal Regulations, Title 5, Part 151.121.
- C. Principles of Ethical Conduct. Board members shall conduct themselves in a manner that strengthens the public's trust and confidence by adhering to the following principles:
1. Honesty, accountability, transparency, respect and trust;
 2. Integrity of the highest caliber;
 3. Conduct that is indisputable and beyond reproach;
 4. Openness and fairness; and
 5. Commitment to compliance with the law, rules and regulations, and Board Operating Policies and Procedures.
- Board members:
- a) shall be honest and ethical in their conduct and the performance of their duties;
 - b) shall adhere to all applicable state and federal laws and regulations, policies and regulations, and member rules and procedures;
 - c) shall protect and conserve state resources and shall not use them for unauthorized activities;

- d) shall endeavor to avoid any actions that would create the appearance that they are violating the law, rules and regulations, or Board Operating Policies and Procedures;
- e) shall not hold financial interests that are in conflict with the conscientious performance of their official duties and responsibilities;
- f) shall not engage in any financial transaction in order to further any private interest using nonpublic information which they obtain in the course of their Board service;
- g) shall not make unauthorized commitments or promises of any kind purporting to bind the Board;
- h) shall not use their public offices for private gain;
- i) shall act impartially with a statewide perspective and not give preferential treatment to any private or public institution of higher education, organization or individual;
- j) shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official duties and responsibilities;
- k) shall promptly disclose fraud, waste, abuse and corruption to the Director of Audit and Compliance; and
- l) shall strictly adhere to all state and federal laws and regulations, policies and regulations, and member rules and procedures regarding sexual harassment and equal opportunity for all persons regardless of race, color, religion, sex, national origin, age, disability, genetic information or veteran status.

D. General Duties and Responsibilities of Board Members

1. The Board is responsible for the hiring, evaluation and, if deemed necessary and appropriate, the termination of employment, of the Commissioner.
2. Duty of Loyalty - A Board member must be responsible and loyal to the interests of the state higher education system as a whole. A member does not represent any other constituency, person, or entity that conflicts with those interests.
3. Duties of the Board Chair - The Board Chair may speak for and represent the Board under a general grant of authority but may not take positions he or she knows to be contrary to Board policy.
4. Duty of Unity – Except as indicated in D.3., Duties of the Board Chair, no single member of the Board may speak for or otherwise bind the Board, unless authorized to do so by vote of a majority of the Board pursuant to an action taken in open, public session at a duly-constituted meeting of the Board.

5. Committee Authority - Board committees represent the Board and act on its behalf in preparation for Board meetings. They have authority to report and recommend various actions, including policy initiatives, to the Board.
6. It is the responsibility of each Board member to have a basic knowledge of the operations, management, finances, and effectiveness of the Agency, and each Board member has the right and authority to inform himself/herself as to the duties, responsibilities, and obligations of the member in such a manner as each may deem proper. Members of the Board are to be provided access to such information as in their individual judgments will enable them to fulfill their duties and responsibilities as members of the Board.
7. A Board member may not publicly disclose information that is confidential by law, unless disclosure is required by law or made pursuant to a vote of the Board to waive an applicable privilege.
8. Members of the Board shall bring concerns about operations, accountability, compliance, or the need for an investigation to the Commissioner, Board Chair, Vice Chair, General Counsel, Director of Audit and Compliance, or appropriate Committee of the Board.
9. Members of the Board shall respect the role of the Commissioner as the chief executive officer of the Agency and shall respect management and reporting lines for the agency.
10. Communication with Agency Staff. Members of the Board are to be provided access to agency personnel as in their individual judgments will enable them to fulfill their duties and responsibilities as Board members. The preferred regular channel of communication from Board members to agency personnel shall be made through the Commissioner and/or senior executive staff (i.e. Deputy Commissioners and General Counsel; also see IX. Board Communication with the Media, Elected Officials, Institutional Representatives, and Students). The Commissioner or senior executive staff member will alert the Board Chair and Vice Chair of any substantive communication with Board members that may directly impact the work of the Board.

~~11. The Board is responsible for the annual performance evaluation of the Commissioner of Higher Education. The Secretary of the Board shall develop the evaluation form and disseminate it to Board members. Each Board member shall complete the form and return it to the Secretary. The Secretary will combine and average the scores and include any comments without attributing the comments to a particular Board member. The Board shall meet in Executive Session to discuss the Commissioner's performance evaluation. The Board is also responsible for setting the Commissioner's annual compensation to an amount not to exceed the amount authorized in the General Appropriations Act.~~

11. The Board is responsible for the annual performance appraisal and compensation of the Commissioner of Higher Education and the Director of Internal Audit and Compliance. The Commissioner's annual compensation may not exceed the amount authorized in the General Appropriations Act and must be done in writing, approved by the Board in a public meeting, signed by the chair, and submitted to the Governor, the Legislative Budget Board and the Comptroller.

The Board Secretary shall work with the Director of Human Resources (HR) to develop the annual performance appraisal forms and disseminate them to Board members no later than June 1 of each year. Each Board member shall complete the forms and return them to the HR Director by July 1. The HR Director will combine and average the scores for each evaluation and include any comments without attributing the comments to a particular Board member. The HR Director shall send the final evaluations to the Board within 14 calendar days before the July Agency Operations Committee meeting. Board members shall meet in Executive Session during the Agency Operations Committee meeting to discuss the performance evaluation of the Commissioner and the Director of Internal Audit and Compliance.

V. MEETINGS OF THE BOARD

- A. Regular Meetings. Regular meetings of the Board shall be held in the city of Austin at least once per quarter of the calendar year on dates determined by the Board.
- B. Emergency Meetings. An Emergency Meeting of the Board may be called by the Board Chair. Notice of such meeting shall be communicated in the manner most likely to give the greatest amount of notice to the members. Every meeting notice to Board members shall contain the meeting time, place, day, and general nature of the business to be transacted.
- C. Special meetings of the Board. Special meetings of the Board may be held at times and places as ordered by the Board during a regular meeting, or special meetings may be called by the Board Chair to be held at a time and place the Chair shall designate.
- D. Notice. The Board Chair shall designate a location for each Board meeting. Notice of the meetings, including the location shall be posted pursuant to the requirements of the Texas Open Meetings Act. All meetings shall be open to the public, except executive sessions as discussed below. Notice to the public of all meetings shall be given pursuant to the Open Meetings Act.
- E. Duties of Board Members at Board Meetings:
 - 1. Right to Speak - A Board member has the right to state his or her views, opinions, positions, and recommendations but should do so professionally and respectfully in the procedural manner established or directed by the Board Chair, who shall allow and facilitate expression of dissenting or minority viewpoints.
 - 2. Duty to Listen - A Board member should listen respectfully to the views, opinions, positions, and recommendations of others, even those with whom he or she disagrees.
 - 3. Duty to Respect Board Decisions - A Board member should abide by and not subvert or otherwise derogate to outside parties lawfully-taken Board decisions. If, as a matter of principle, a Board member must articulate a minority opinion, he or she may do so; however, such opinion should be announced to the Board through the Board Chair, who may call upon the dissenting Board member to articulate his or her opinion.
 - 4. Duty of Confidentiality - A Board member should not report the Board's executive session discussions, deliberations, or statements of Board members (including his or hers) to any

third party without the Board's permission unless required by law to do so. Robert's Rules of Order (11th ed., 2011.)

5. Duty of Attendance - Board members should make every attempt to attend Board meetings. However, if a Board member is unable to attend a Board meeting, he or she shall notify the Board Chair as soon as practicable. In accordance with state statute (Texas Education Code Section 61.0223(a)(5)) and Section II.E.1.e of the Board's Operating Policies and Procedures, if a Board member is absent from more than half of the regularly scheduled Board meetings during a calendar year without an excuse approved by a majority vote of the Board, the Board member is subject to removal from the Board.
 6. Duty of Disclosure - If a Board member has a real or potential private or personal interest in a measure, proposal, or decision pending before the Board, she/he should disclose this information to the remainder of the Board in open meeting and refrain from voting or otherwise participating concerning that matter (Texas Government Code §572.058). An individual who violates this duty is subject to removal from office on the petition of the Attorney General on the Attorney General's own initiative or on the relation of a resident or of any other member of the Board. For purposes of section 572.058, an individual does not have a "personal or private interest" in a measure, proposal, or decision if the individual is engaged in a profession, trade, or occupation and the individual's interest is the same as all others similarly engaged in the profession, trade, or occupation.
- F. Agendas. The Board Chair and Vice Chair shall determine the agenda for a Board meeting. Board members have a right and a duty to raise matters of concern related to Board oversight. In order that such matters can be discussed properly, it is important that a Board member with a concern mention it to the Board Chair and Vice Chair in time for the matter to be added to the agenda, if needed. The Board Chair makes the final determination as to whether to place an item on the agenda unless a majority of the Board members present request to add an item or otherwise amend the agenda. If an item is removed from the agenda, the Board Chair will timely inform other Board members of the reason for removing an agenda item after it has been posted. Board members shall receive the agenda and supporting materials for an upcoming meeting at least two weeks before the meeting, to the extent possible. Each matter to be considered at a meeting of the Board or a committee of the Board as an Agenda Item shall be accompanied by a summary of the facts pertaining thereto, the need for action thereon, and the recommendations of the Commissioner, staff, or advisory committee, where appropriate.
- G. Consent Agendas. A compilation of matters required to be approved by or reported to the Board via a Consent Agenda format shall be prepared as directed and approved by the Commissioner, Deputy Commissioners, and Assistant Commissioners, as appropriate. Any Board member may request that an item be added or removed from the Consent Calendar at the time it is being considered. Addition of an item from the Agenda to the Consent Agenda requires approval of a majority of Board members present. Removal of an item can be accomplished at the request of a single Board member.
- H. Quorum/Action. At each regular or emergency meeting, the Board Chair shall certify a quorum is present in order to conduct official business of the Board. A quorum of the Board is a majority of the number of members fixed by statute, not including the Board's student

representative. Accordingly, five members is a quorum of the Board for all purposes. The Texas Open Meetings Act prohibits less than a quorum of members from discussing or deliberating official business of the Board at such a meeting. A majority of members present, whether or not they comprise a quorum, may adjourn the meeting from time to time. A majority shall mean, for all purposes, more than half of the votes cast, ignoring abstentions.

- I. Rules Governing Board Action. The Board Operating Policies and Procedures shall govern the action of the Board. In the event that the policies and procedures do not specify how an action shall be conducted, the Board, as appropriate, shall refer to pertinent statutes, rules, or the latest Robert's Rules of Order Newly Revised Edition.
- J. Recordation of Meetings. All or any part of the public meeting may be recorded by any person in attendance by means of tape recorder, video camera, or any other means of sonic or visual reproduction unless determined by the Board Chair to be disruptive of the meeting.
- K. Public Testimony. Opportunity for public testimony shall be provided at each regularly scheduled meeting of the Board and its standing committees.
 - 1. The Board or Committee Chair shall take appropriate action to avoid unnecessary, repetitive testimony and to assure that different members of the public with differing points of view have reasonable access to the Board or committee. The Board or Committee Chair shall strive to ensure that representatives from both sides of an issue are able to address the Board or committee.
 - 2. Oral and written testimony shall be limited to an existing agenda, including consent, item that is being considered by the Board.
 - 3. Individuals wishing to testify must register via mail, email, fax or online using the public comment form available on the agency's website at least 24 hours prior to the meeting. Exceptions may be made at the discretion of the Board or Committee Chair.
 - 4. Individuals must provide his or her name, organizational affiliation, if any, and indicate which agenda item shall be addressed. A separate form must be submitted for each agenda item on which the speaker will testify. Additionally, the registrant shall disclose his or her viewpoint on the agenda item. The date and time the registration was received shall be noted.
 - 5. Each speaker shall have three minutes, unless otherwise stated in advance by the Board or Committee Chair. Testimony is limited to one representative per organization.
 - 6. Special accommodations for individuals who may require auxiliary aids or other services shall be made by the Agency's ADA Coordinator. Individuals requiring these accommodations shall notify the ADA Coordinator at least five days prior to the meeting.
 - 7. A registrant offering written materials in lieu of oral testimony shall provide at least 10 copies of the materials to Agency staff for distribution to Board members.

- L. Executive Sessions. Executive Sessions of the Board are closed meetings of the Board which may be held as authorized by the Open Meetings Act.

VI. BOARD COMMITTEES

- A. The Board Chair may establish regular, standing, or temporary committees of the Board as he/she deems appropriate.
- B. To the extent practicable, all subjects and matters requiring Board action shall be referred to the appropriate standing committee for consideration and recommendation before action is taken by the Board. If the matter could be considered by more than one committee, the Board Chair will determine the appropriate referral.
- C. The Board Chair shall appoint an appropriate number of members to serve on the standing committees, including one to serve as Committee Chair. The Board Chair has established the following standing committees:
 - 1. Agency Operations Committee (AOC). This committee is responsible for matters pertaining to agency operations. Responsibilities include:
 - a. Agency strategic plan;
 - b. Agency's legislative appropriations request;
 - c. Audit, Compliance, and IT functions;
 - d. Student loan portfolio;
 - e. Agency's continuous improvement initiatives; and
 - f. Any other issues, rules, reports, and studies relating to agency operations.
 - 2. Committee on Academic and Workforce Success (CAWS). This committee is responsible for all matters pertaining to academic excellence, research, health, and workforce development. Responsibilities include:
 - a. Academic and technical programs;
 - b. Data, information and reports relating to low producing degree programs;
 - c. Certificates of approval/accreditation;
 - d. Workforce Development (Perkins/Vocational Education);
 - e. Research programs;
 - f. GME and other health programs;
 - g. College Readiness and Success (TSI, Developmental Education, ABE, Educator Quality);
 - h. P-16 Outreach Initiatives;
 - i. Learning Technology;
 - j. Transfer Issues and Initiatives; and
 - k. Any other issues, rules, reports, and studies relating to academic excellence, research, health and workforce development.
 - 3. Committee on Affordability, Accountability and Planning (CAAP). This committee is responsible for policy development, strategic planning for statewide higher education, and monitoring of the state's progress in achieving the goals of the strategic plan. Responsibilities include:

- a. Long-term Strategic Plan for Texas Higher Education;
- b. Legislative Agenda;
- c. Formula Funding;
- d. Data, information and reports relating to Campus Facilities;
- e. Accountability System;
- f. Financial Aid;
- g. Higher Education Strategic Plan Progress Reports;
- h. Institutional Cost Efficiencies; and
- i. Any other issues, rules, reports, and studies relating to affordability, accountability, and planning.

The performance appraisals of the Commissioner, ~~General Counsel~~ and Director of Internal Audit and Compliance, as well as all rules developed through the negotiated rulemaking process, shall be considered by the full Board, not a Board standing committee.

D. Advisory Committees

- 1. The Board may establish advisory committees and shall appoint advisory committee members; however, a Board member may not serve as a member of an advisory committee.
- 2. The Board shall adopt rules to establish advisory committees in accordance with 19 Texas Administrative Code, Part 1, Chapter 1, Subchapter A, Section 1.6.

VII. BOARD RULES

- A. Rule Making Authority. The rules adopted by the Board are part of a larger body of state agency rules that are collected and published by the Office of the Secretary of State as the Texas Administrative Code (TAC). Board rules are codified under Title 19, Part I, of the TAC. Title 19 is Education, and Part I is the Texas Higher Education Coordinating Board. The Board may adopt new rules or abolish or amend existing rules.
- B. Rule Making Process. The rulemaking process is primarily governed by Chapter 2001 of the Texas Government Code and is designed to permit and encourage stakeholder participation in rule making. The Agency also utilizes Chapter 2008 of that Code when it engages in negotiated rulemaking. The process shall follow Board rules, Chapter 1, Subchapter A, Rule 1.14. Rules that have been developed through negotiated rulemaking process are not considered by a Board committee before being considered by the full Board.
- C. Rule Review Process. In accordance with Texas Government Code, §2001.039, the Board shall review its rules every four years to ensure that statutory authority and the reasons for the rules continue to exist.
- D. Filing Non-Substantive Rule Corrections with the Secretary of State. The Commissioner of Higher Education or the Commissioner's designee may approve and file with the Secretary of State non-substantive corrections to the Board's rules. Non-substantive rule corrections may

include typographical, grammatical, referencing, or spelling errors and technical edits to comply with Texas Register style and format requirements.

VIII. CONTRACTS AND MEMORANDA OF AGREEMENT

A. Contracts.

1. The Board shall execute interagency contracts to perform routine administrative functions and may execute other contracts as allowed by law.
2. The Board shall not contract for goods or services with a relative of a Board member unless the contract results from a competitive process in compliance with state purchasing laws. "Relative" for the purpose of this subsection shall be based on the civil law standard for determining degrees of relationship and shall mean any persons related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood). A Board member shall identify to the General Counsel any relative that may be considering a contractual relationship with the Board.

- B. Delegation. The Board Chair, Vice Chair, and Chair of the relevant Board standing committee may approve contracts on behalf of the Board in accordance with Board rule, Chapter 1, Subchapter A, Section 1.16.

IX. BOARD COMMUNICATIONS WITH THE MEDIA, ELECTED OFFICIALS, INSTITUTIONAL REPRESENTATIVES, AND STUDENTS

A. Communications with the Media

1. Reports on actions of the Board on matters of public interest will be given to the press as promptly as possible by the External Relations Department.
2. Statements on matters of an obviously controversial nature shall be made by the Board Chair or the Commissioner.
3. No Board member shall make or issue any public statement on an obviously controversial subject which might reasonably be construed as a statement of the official position of the Board without the advance approval of the Board Chair.
4. It is not the intent of this policy statement to stifle the right of freedom of speech of anyone speaking in a personal capacity where that person makes it clear that he or she is not speaking for the Board or the members of the Board. To the extent possible, Board members are expected to coordinate with the External Relations Department regarding any media contacts and press statements.

- B. Communications with Elected Officials. When a Board member would like to schedule a meeting with an elected official regarding matters relating to the Board, , it is preferred the Board member request that the External Relations Department schedule the meeting, provide

all necessary information/talking points, and accompany the Board member as needed/requested.

- C. Communications with Institutional Representatives. When a Board member is contacted by an administrator, faculty member, or governmental relations staff member from an institution of higher education regarding a controversial issue relating to the Board, the Board member shall notify the the Board Chair and Vice Chair.
- D. Student Complaints. When a Board member is contacted by a student with a complaint or request for information, it is preferred that the Board member refer the individual to the General Counsel's Office for further assistance. The General Counsel's Office shall notify the Board member how the complaint or request for information was handled by Agency staff.
- E. Speaking Invitations. When a Board member accepts an invitation to speak at a public event on behalf of the Board, it is preferred that the Board member contact the External Relations Department to request necessary information/talking points. The External Relations Department shall also notify the Board Chair and Vice Chair of the speaking invitation.

X. REQUESTS FOR DATA AND INFORMATION

1. Information requests from or on behalf of an individual member of the Board seeking the compilation of significant quantities of information or data maintained by the agency will be reviewed by the Board Chair, the Commissioner, and General Counsel and, if necessary, discussed with the requesting Board member to determine the appropriate scope of the request and timing of the response to avoid inefficiencies and duplication of effort but shall also ensure that requests are fulfilled in a timely manner consistent with applicable law and policy.
2. Smaller requests for existing information or data that do not appear to require significant time or effort may be processed promptly by Agency staff.
3. Within 5 business days of the receipt of a Board member's information request, the requesting Board member will be provided with an estimated date for delivery or production. The Board requires Agency staff to respond thoroughly and appropriately to requests for information from a member of the Board without undue delay. In the rare circumstance when there are concerns about a Board member's request, the matter will be discussed with the Board member within 5 business days of receipt of the request. If concerns are unresolved following discussion with the Board member, the matter will be presented to the Board as quickly as possible, including by call of a special meeting if necessary. Upon vote, if any two or more Board members support the request, the request will be filled without delay.
4. This process is not intended nor will it be implemented to prevent a member of the Board from access to information or data that the Board member deems necessary to fulfill his or her official duties and responsibilities.

XI. MISCELLANEOUS

- A. Fiscal Year. The fiscal year of the Board is the same as the official fiscal year of the State of Texas. It shall begin on September 1 and end on August 31 of each year.
- B. Minutes. Minutes of the Board and Board committee meetings shall be prepared and maintained, as required in the Open Meetings Act.
 - 1. Minutes of the Board meetings shall be approved by the Board and signed by the Secretary of the Board. Minutes of the Board committee meetings shall be approved by the appropriate Board committee.
 - 2. Before the Board or Board committee approves the minutes of the last meeting, the minutes shall be sent to each member of the Board (or each member of the Board committee) for review, comment, and correction prior to approval.
 - 3. Minutes are available for public review as authorized by the Open Meetings Act. All books and records of the Board shall be stored according to the records retention schedules as set forth by the State Library and Archives Commission.
 - 4. The Board or a Board standing committee must make either a certified agenda or recording of each closed session, except for an executive session held by the Board or Board committee to consult with its attorney in accordance with section 551.071 of the Government Code (the Attorney/Client privilege section). If a certified agenda is kept, the presiding officer (i.e., the Board Chair, Committee Chair, or other member presiding during the closed session) must certify that the agenda is a true and correct record of the executive session. A certified agenda must include "(1) a statement of the subject matter of each deliberation, (2) a record of any further action taken, and (3) an announcement by the presiding officer at the beginning and the end of the closed meeting indicating the date and time." While such agenda does not have to be a verbatim transcript of the meeting, it must at least provide a brief summary of each deliberation.

Any Board member participating in a closed session knowing that a certified agenda or recording is not being made commits a Class C misdemeanor. The certified agenda or recording of an executive session shall be destroyed after two years (absent litigation or threat thereof), in accordance with state law. A certified agenda or recording of an executive session is confidential. A person who knowingly and without lawful authority makes these records public commits a Class B misdemeanor and may be held liable for actual damages, court costs, reasonable attorney fees, and punitive damages. Section 551.104 provides for court-ordered access to the certified agenda or recording under specific circumstances.

A Board member has a right to inspect the certified agenda or tape recording of a closed meeting, even if he or she did not participate in the meeting. This is not a release to the public in violation of the confidentiality provisions of the Act, because a Board member is not a member of the public within that prohibition. A Board member may not copy the recording or certified agenda of a closed meeting, nor may a former member inspect these records once he or she leaves office.

XII. POLICIES AND PROCEDURES: GUIDELINES

- A. Effective Date of Policies and Procedures. These policies and procedures and any amendments to them shall become effective upon approval of the Board.
- B. Amendments to Policies and Procedures. Any of these policies and procedures may be altered, amended, or repealed, and new policies and procedures may be adopted by an affirmative vote of a majority of the Board, unless to do so would be contrary to law.
- C. The Board Operating Policies and Procedures create no substantive or procedural rights. They are guidelines for the Board's internal governance only.
- D. The Board Operating Policies and Procedures shall be reviewed by the Board in October of even numbered years unless (1) an earlier modification is required by law or (2) a proposal is made by a Board member to modify such policies and procedures at an earlier date.

Committee on Agency Operations

AGENDA ITEM IV-C

Consideration of adopting the Commissioner's recommendation to the Committee relating to a proposed new subsection to Chapter 1, Subchapter A, Section 1.16 of Board rules concerning Agency Administration (Contracts, Including Grants, for Materials and/or Services)

RECOMMENDATION: Approval

Background Information:

Specifically, this new subsection will address Texas Government Code 2261.253(c). Each state agency by rule shall establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body. The agency's contract management office or procurement director shall immediately notify the agency's governing body, as appropriate, of any serious issue or risk that is identified with respect to a contract monitored under this subsection. Subsection (l) is proposed to be added to address this requirement.

General Counsel William Franz is available for questions.

Date Approved by the Commissioner for Publication in the Texas Register: January 9, 2019

Date Published in the Texas Register: January 25, 2019

The 30 day comment period with the Texas Register ended on: February 25, 2019

No comments were received regarding the amendments to these rules.

The amendments have been prepared in the following format:

- New language is in lowercase, underlined, and shaded.
- Deleted language is bracketed and struck through.
- When new language replaces deleted language, the new language precedes the deleted language.

Chapter 1. Agency Administration

Subchapter A. General Provisions

- 1.1. Dates for Regular Quarterly Meetings of the Board
- 1.2. Authority of the Commissioner to Interpret Rules
- 1.3. Educational Data
- 1.4. Rules of Order
- 1.5. Coordinating Board Committees
- 1.6. Advisory Committees
- 1.7. Petition for the Adoption of Rules
- 1.8. Historically Underutilized Business (HUBs) Program
- 1.9. Training for Members of Governing Boards and Board Trustees
- 1.10. Administration of the Open Records Act
- 1.11. Protest Procedures for Resolving Vendor Protests Relating to Purchasing Issues
- 1.12. Foreign Travel
- 1.13. Internal Auditor and Compliance Monitoring
- 1.14. Negotiated Rulemaking
- 1.15. Authority of the Commissioner to Propose Board Rules
- 1.16. Contracts, Including Grants, for Materials and/or Services
- 1.17. Authority of the Commissioner to Provide Direct Supervision of the Education Research Centers
- 1.18. Operation of Education Research Centers
- 1.19. Education and Training of Board Administrators and Employees

1.1. – 1.15. (No change)

1.16. Contracts, Including Grants, for Materials and/or Services

(a) The Board shall approve all requests for the purchase or acquisition of materials and/or services if the cost for those materials and/or services is expected to exceed \$750,000. After a vendor or grantee is selected, a majority of the Chair and Vice Chair of the Board and the Chair of the responsible Board committee shall provide final approval of the contract with the selected vendor or grantee.

(b) The Board shall, in an open meeting, consider any material change to all contracts for goods or services awarded under Texas Government Code, Chapter 2155. A material change to a contract includes extending the length or postponing the completion of a contract for six months or more; or increasing the total consideration to be paid under a contract by at least 10 percent, including by substituting certain goods, materials, products, or services. Goods are supplies, materials, or equipment. Services are the furnishing of skilled or unskilled labor or professional work but do not include a professional service subject to Subchapter A, Chapter 2254, Texas Government Code, service of a state employee, consulting service or service of a consultant as defined by Subchapter B, Chapter 2254, or the service of a public utility.

(c) The Board committee to which an item is assigned shall approve all requests relating to that item for the purchase or acquisition of materials and/or services if the cost for those materials and/or services is greater than \$100,000 but less than or equal to \$750,000. After a vendor or grantee is selected, a majority of the Chair and Vice Chair of the Board and the Chair of the responsible Board committee shall provide final approval of the contract with the selected vendor or grantee.

(d) All contracts, including grants, whose amounts payable are less than or equal to \$100,000 must be approved in accordance with this subsection (d) of this section unless the Board or a Board committee or the Board Chair, Vice Chair, and Chair of the responsible Board committee has approved such agreements.

(1) The Commissioner or the Deputy Commissioner with primary oversight of a particular contract shall approve every such contract, including grants, for the purchase or acquisition of materials and/or services if the contract or grant amount is less than or equal to \$100,000 but greater than \$5,000.

(2) Assistant Commissioners, in addition to the Commissioner and Deputy Commissioners, may approve contracts, including grants, within their area of responsibility, if the amount payable is less than or equal to \$5,000.

(e) The Commissioner shall provide a report to the Board, at least quarterly, describing all contracts, including grants, for the purchase or acquisition of materials and/or services that were executed pursuant to subsection (d) of this section and not considered by the Board or a Board committee or by the Board Chair, Vice Chair, and Chair of the responsible Board committee.

(f) The Chair and Vice Chair of the Board have the authority to approve emergency purchase requests and contracts for materials and/or services over \$100,000 that must be entered into in order to prevent a hazard to life, health, safety, welfare, property or to avoid undue additional cost to the state. Emergency purchase requests and contracts are exempt from subsections (a) and (c) of this section.

(g) In the event that the agency is required by statute to enter into a contract or grant for the purchase or acquisition of materials and/or services with a value of over \$100,000, approval of such a request or contract or grant by the Board or a Board committee pursuant to subsection (a) or (c) of this section, as appropriate, shall not be required when such a contract or grant award involves no discretion by the Board or agency staff. The Commissioner or a Deputy Commissioner, in accordance with subsection (d) of this section, shall approve such contracts or grants and report them to the Board at the next quarterly Board meeting following the approval.

(h) In the event that a contract or grant for a given amount has been approved by either the Board or a Board committee, as applicable, and circumstances alter such that the expenditure necessary under the contract or grant increases by less than ten percent, the Commissioner or a Deputy Commissioner, in accordance with subsection (d) of this section, may approve such an increase. Should the increase in expenditure equal or exceed ten percent or extend the length of or postpone completion of the contract by six months or more for contracts for goods or services awarded under Texas Government Code, Chapter 2155, approval must be sought in

accordance with subsection (b) of this section. Should the increase in expenditure equal or exceed ten percent for contracts or grants not covered by Chapter 2155 but which were approved by either the Board or a Board committee or by a majority of the Board Chair, Vice Chair, and the Chair of the responsible Board committee, the contract or grant must be submitted for approval by a majority of the Board Chair, Vice Chair, and the Chair of the responsible Board committee.

(i) In the event that the Board or a Board committee, as applicable, has approved the issuance of a solicitation request for the purpose of obtaining materials and/or services that will result in the letting of contracts, including grants, to multiple vendors or providers of services, any resulting contract or grant which by itself shall have a cost greater than \$100,000 must be approved by a majority of the Chair and Vice Chair of the Board and the Chair of the responsible Board committee unless such contracts are approved by the Board or the responsible Board committee, as appropriate. The Commissioner or a Deputy Commissioner, in accordance with subsection (d) of this section, shall provide final approval of contracts or grants with the selected vendors or grantees if the contract amount is less than or equal to \$100,000; the Board Chair, Vice Chair and the Chair of the responsible Board committee shall be notified in such event.

(j) For each contract for the purchase of goods or services that has a value exceeding \$1 million:

(1) there must be contract reporting requirements that provide information on the following:

- (A) compliance with financial provisions and delivery schedules under the contract;
- (B) corrective action plans required under the contract and the status of any active corrective action plan; and
- (C) any liquidated damages assessed or collected under the contract.

(2) Verification is required of:

- (A) the accuracy of any information reported under paragraph (1) of this subsection that is based on information provided by a contractor; and
- (B) the delivery time of goods or services scheduled for delivery under the contract.

(3) Any such contract for the purchase of goods or services that has a value exceeding \$1 million may be entered into only if the contract is approved and signed by the Commissioner, to whom the Board hereby delegates such approval and signature authority. In exercising such approval authority, the Commissioner shall use the approval process established in subsection (a) of this section.

(4) For purposes of this subsection, "contract" includes a grant, other than a grant made to a school district or a grant made for other academic purposes, under which the recipient of the grant is required to perform a specific act or service, supply a specific type of product, or both.

(k) For each contract for the purchase of goods or services that has a value exceeding \$5 million, the contract management office or procurement director must:

- (1) verify in writing that the solicitation and purchasing methods and contractor selection process comply with state law and agency policy; and
- (2) submit to the Board information on any potential issue that may arise in the solicitation, purchasing, or contractor selection process.
- (3) For purposes of this subsection, "contract" includes a grant, other than a grant made to a school district or a grant made for other academic purposes, under which the recipient of the grant is required to perform a specific act or service, supply a specific type of product, or both.

(l) Agency staff shall utilize THECB's Procurement and Contract Management Handbook guidelines and the THECB's Risk Assessment tool to determine which contracts require enhanced contract or performance monitoring.

1.17. – 1.19. (No change)

Committee on Agency Operations

AGENDA ITEM IV-D

Update on the Board's budget priorities for the 86th Texas Legislature

RECOMMENDATION: No action required

Background

By the time this agenda item is presented to the Agency Operations Committee, it is expected that both the House and the Senate will have adopted their version of the General Appropriations Act (GAA) for the 2020-21 biennium. The appointment of a conference committee composed of both House and Senate members to consider any differences between the bills will have been established.

Linda Battles, Deputy Commissioner for Agency Operations and Communications/Chief Operating Officer, will provide the Board with the latest update on the Board's budget in the House and Senate appropriations bills.

Committee on Agency Operations

AGENDA ITEM V-A

Review of the Fiscal Year 2019 Financial Report to the Board

RECOMMENDATION: No action required

Background Information:

During each quarterly Committee meeting, the agency's Finance Department provides a financial report summarizing the agency's fiscal-year-to-date budgetary and financial activities. This is a financial management report that is developed for both agency and Board use. The Texas Higher Education Coordinating Board (THECB) staff may revise this report periodically to present the most relevant information.

Key points:

- This report reflects data for the first quarter of Fiscal Year (FY) 19.
 - September 1, 2018 through February 28, 2019.
- The report is distributed to agency executive management on a monthly basis.
- Report overview:
 - Budget adjustments are primarily related to carrying forward of unexpended balances (UB) from FY18 into FY19. The THECB received new Federal funding of \$800,000 relating to the Mental Health Loan Repayment Program and \$1.8 million from the Texas Workforce Commission for the Advise Texas program.
 - College Access Loan (CAL) program demand is approximately 11% higher than the previous year due to the low interest rate. Rate is currently 5.3%.
 - Completed new money bond sale for the 2019 bond series on February 20, 2019. True Interest Cost was 3.4%. New bonds and student loans are included in the loan program projections.
 - Rate for 19/20 academic year for the CAL program will be 5.20%. The program saved \$40 million from the refunding of the 2007/2008 bond series. These savings will be passed on to future loans in the form of lower interest rates.
 - Implemented Automated Clearing House programming that allows a borrower to sign up for automated drafting of their checking or savings account. A 0.25% interest rate reduction is provided as an incentive. This enhances cash flow and overall efficiency of the loan program.

Ken Martin, Assistant Commissioner for Financial Services/CFO, will present this item to the Committee and be available for questions.

Committee on Agency Operations

AGENDA ITEM V-B

Consideration of adopting a resolution authorizing the issuance of State of Texas College Student Loan Bonds in one or more series to refund the 2009 bond series; and delegation of the authority for administration and approval of the activities necessary to complete the sale of the private activity bonds

RECOMMENDATION: Approval

Background Information:

The Texas Higher Education Coordinating Board staff is requesting approval to issue up to \$55 million in aggregate principal amount of refunding bonds in Fiscal Year 2020 to pay off previously issued bonds for the 2009 series bonds. Market rates continue to remain low, and it is anticipated that issuing new bonds to pay off the older bonds will yield an overall projected savings of \$10 million in cash flow. Bonds are typically callable after the first 10 years from issuance. The 2009 bonds will be callable after 8/1/2019.

- Net present value of the savings is projected to be \$8.3 million.
- An analysis was performed by the agency's financial advisor to determine that refunding these bonds will have a small impact on the arbitrage liability.
- Estimated average coupon of refunded bonds is 5.0 percent.
- Par amount of refunded bonds will be \$55,000,000 after 8/1/2019.
- These bonds are authorized under the Texas Constitution, Sections 50b-4 through 50b-7.
- Total bond par outstanding will be \$1.2 billion after 8/1/2019.
- Total bond funded student loans outstanding is currently \$1.5 billion.
- This refunding will not impact the current constitutional limit.
- The agency sells tax exempt general obligation private activity bonds.
- The agency is required to maintain compliance with various state statutes, Securities Exchange Commission, and Internal Revenue Service regulations.
- These bonds are general obligation bonds that are backed by the State.
- An application to the Bond Review Board for tax exempt volume cap will be necessary, since this is paying off previously issued bonds.
- The Office of the Attorney General is required to approve the final sale.

Historical Bond Sales

<u>Bond Year</u>	<u>Par Amount</u>
2009	\$71,730,000
2010	\$113,580,000
2010R	\$51,865,000
2011A	\$118,650,000
2011B	\$27,020,000
2011C	\$6,570,000
2012	\$85,615,000
2013A	\$98,550,000
2013B	\$113,740,000
2014	\$68,130,000
2015	\$150,000,000
2016	\$158,065,000
2017	\$155,720,000
2018R	\$94,915,000
2019	\$159,965,000

A representative from the Board's bond counsel McCall, Parkhurst & Horton, and financial advisors from Hilltop Securities, Inc. and YaCari Consultants, LLC will be available to answer any questions regarding the proposed resolution authorizing the issuance of the bonds, the delegation of authority to approve all final terms of the bonds, and the delegation of authority to file for the state's allocation of private activity volume cap.

Ken Martin, Assistant Commissioner for Financial Services/CFO, will present this item to the Committee and be available for questions.

Committee on Agency Operations

AGENDA ITEM V-C

Consideration of authorization to enter into an agreement with the Office of the Attorney General (OAG) to provide collection services for the agency's student loan program

RECOMMENDATION: Approval

Background Information:

In 2009, the agency entered into an interagency agreement with the Office of the Attorney General (OAG) to provide collections services in support of the Texas Higher Education Coordinating Board's (THECB) student loan program. The loan default collection team is comprised of nine dedicated OAG staff. This contract is for Fiscal Years (FY) 2020 and 2021.

Since the inception of the agreement, the annual collections on defaulted student loans has increased from \$3.5 million in FY 09 to over \$12 million in FY18 (343%).

Key points:

- This request is to allow for the continuance of the agreements for Fiscal Years 2020 and 2021. The estimated amount of the combined agreements is \$2,658,000 for a two-year period beginning 9/1/2019.
- The THECB will reimburse the OAG for: the direct costs of the collections team, any OAG related staff time, and various ancillary services that are utilized to support the litigation process. The costs directly related to the collections team and the OAG-related support are limited to \$669,500 per year, for a total of \$1.34 million for the biennium. This includes a 3% increase from the current biennium for merit raises and promotions. The current Fiscal Year 18/19 biennial limit is \$650,000.
- With this agreement, Financial Services will be required to pay for ancillary services from various vendors selected by the OAG. These services include citation issuing services, case filing, and court costs. The annual estimated cost of citation issuing services is \$170,000 court costs are projected at \$25,000 and filing fees are projected at \$450,000.
- This does not require a Request for Quotation (RFQ) due to existing master service agreements with the OAG and existing Department of Information Resources (DIR) statewide contracts.
- The contract requires final approval by the OAG.
- Since this is related to legal services, the utilization of another vendor(s) would require OAG approval.

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Ken Martin, Assistant Commissioner for Financial Services/CFO, and Ron Del Vento, Assistant Attorney General, Bankruptcy & Collections Division, will present this item to the Committee and be available for questions.

Committee on Agency Operations

AGENDA ITEM VI-A

Discussion of Statements on Auditing Standards No. 114, The Auditor's Communication with Those Charged with Governance

RECOMMENDATION: No action required

BACKGROUND INFORMATION:

In accordance with the requirements of the Statements on Auditing Standards No. 114, the Board's external auditor, KPMG LLP, will be discussing their responsibility under generally accepted auditing standards. The discussion will include the auditor's responsibility for forming and expressing an opinion on whether the financial statements that have been prepared by management with the oversight of those charged with governance are presented fairly, in all material respects and in conformity with generally accepted accounting principles.

The auditor will also communicate an overview of the planned scope and timing of the audit, as well as financial risk areas.

Susan Warren, Audit Partner, with KPMG LLP, will present this item to the Committee and be available for questions.

Committee on Agency Operations

AGENDA ITEM VI-B

Discussion of the State of Texas Federal Portion of the Statewide Single Audit for the Fiscal Year Ended August 31, 2018, Report Number 19-315 issued March 2019 by the Texas State Auditor's Office

RECOMMENDATION: No action required

BACKGROUND INFORMATION:

The Federal Portion of the Statewide Single Audit for the Fiscal Year Ended August 31, 2018, Report Number 19-315 identified four Texas Higher Education Coordinating Board (THECB) findings. There were no questioned costs associated with these findings and they were classified as "Significant Deficiencies."

2018-001 Allowable Costs/Cost Principles

This finding pertained to the THECB and multiple state agencies that utilize the Peoplesoft Human Capital Management System (referred to as CAPPs Central HR) managed by the Comptroller of Public Accounts. Weaknesses in controls over program change controls and access management were cited by the auditor. The Comptroller of Public Accounts concurred with the auditor's recommendation and indicated that corrective measures were implemented in August 2018.

2018-033 Timely Claims Filings by Lenders or Servicers

This finding noted that a tracking report for Loan Program Operations to track all death, disability, and bankruptcy claims was not complete in failing to track a bankruptcy claim until the discharge date. There was no questioned costs as it was appropriate that no claim was filed based on the bankruptcy notice that was ultimately received. Management concurred with the finding, and the corrective action was implemented in November 2018 by developing a query to ensure proper tracking and processing of all death, disability, and bankruptcy documentation.

2018-034 Allowable Costs/Cost Principles

This finding highlighted the need for a consistent, documented process to evidence the supervisory review of payroll charges to federally sponsored programs. While exception reports were being run to indicate situations where supervisory review had not been performed, documentation was not available to consistently show the completion of all supervisory review. Management concurred with the finding, and the corrective action fully implemented in January

2019 involves additional follow through on exception reports until all issues are resolved and evidence of such is retained.

2018-034 Matching, Level of Effort, Earmarking

This finding noted that a manual spreadsheet error, resulting in underreported expenses of \$37.8 million, was made on a report of expenses submitted to the Texas Education Agency (TEA). TEA uses the report to ensure statewide Perkins expenditures meet federal maintenance of effort requirements. Irrespective of the error, TEA's conclusion regarding maintenance of effort compliance was still correct and therefore there were no questioned costs associated with this finding. Management concurred with the finding and changed processes to eliminate the manual step where the error occurred.

The reported findings are provided on the following pages. Susan Warren, Audit Partner, KPMG LLP, will present this item to the Committee. KPMG LLP performs this audit under contract with the Texas State Auditor's Office.

COMPTROLLER OF PUBLIC ACCOUNTS

Section 3a:

Federal Award Findings and Questioned Costs – KPMG

This section identifies material weaknesses, significant deficiencies, and instances of non-compliance, including questioned costs, as required to be reported by Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Section 200.516 *Audit Findings*. This section is organized by state agency.

**Comptroller of Public Accounts
Texas Higher Education Coordinating Board
Texas Education Agency**

Reference No. 2018-001

Allowable Costs/Cost Principles

CFDA 84.010 – Title I Grants to Local Educational Agencies

Award years – July 1, 2017 to September 30, 2019, July 1, 2016 to September 30, 2018, and July 1, 2015 to September 30, 2017

Award numbers – S010A170043-17B, S010A160043-16B, and S010A150043-15B

CFDA 84.048 – Career and Technical Education – Basic Grants to States (Perkins IV)

Award years – July 1, 2017 to September 30, 2019, July 1, 2016 to September 30, 2018, and July 1, 2015 to September 30, 2017

Award numbers – V048A170043, V048A160043-16A, and V048A150043-15B

CFDA 84.287 – Twenty-First Century Community Learning Centers

Award years – July 1, 2017 to September 30, 2019, July 1, 2016 to September 30, 2018, and July 1, 2015 to September 30, 2017

Award numbers – S287C170044, S287C160044, and S287C150044

Employment Service Cluster

Award years – July 1, 2018 to June 30, 2021, July 1 2017 to June 30, 2020, July 1, 2016 to June 30, 2019, and July 1, 2015 to June 30, 2018

Award numbers – ES-31877-18-55-A-48, ES-31015-17-55-A-48, ES-29440-16-55-A-48, and ES-27519-15-55-A-48

Highway Planning and Construction Cluster

Award years – various

Award numbers – various

TANF Cluster

Award years – October 1, 2017 to September 30, 2018 and October 1, 2016 to September 30, 2017

Award numbers – 1801TXTANF, 1801TXTAN3, 1701TXTANF, and 1701TXTAN3

WIOA Cluster

Award years – July 1, 2018 to June 30, 2021, July 1 2017 to June 30, 2020, July 1, 2016 to June 30, 2019, and July 1, 2015 to June 30, 2018

Award numbers – AA-32205-18-55-A-48, AA-30959-17-55-A-48, AA-28345-16-55-A-48, and AA-26808-15-55-A-48

Non-Major Programs:

10.025 – Plant and Animal Disease, Pest Control, and Animal Care

11.407 – Interjurisdictional Fisheries Act of 1986

11.434 – Cooperative Fishery Statistics

11.441 – Regional Fishery Management Councils

11.549 – State and Local Implementation Grant Program

12.106 – Flood Control Projects

12.401 – National Guard Military Operations and Maintenance (O&M) Projects

12.404 – National Guard Challenge Program

14.000 – U.S. Department of Housing and Urban Development

14.228 – Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii

14.231 – Emergency Solutions Grant Program

14.239 – Home Investment Partnerships Program

14.275 – Housing Trust Fund

14.326 – Project Rental Assistance Demonstration (PRA Demo) Program of Section 811 Supportive Housing for Persons with Disabilities
 15.250 – Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining
 15.252 – Abandoned Mine Land Reclamation (AMLR)
 15.634 – State Wildlife Grants
 15.669 – Cooperative Landscape Conservation
 16.540 – Juvenile Justice and Delinquency Prevention
 16.575 – Crime Victim Assistance
 16.588 – Violence Against Women Formula Grants
 16.741 – DNA Backlog Reduction Program
 16.742 – Paul Coverdell Forensic Science Improvement Grant Program
 17.005 – Compensation and Working Conditions
 17.504 – Consultation Agreements
 20.218 – Motor Carrier Safety Assistance
 20.700 – Pipeline Safety Program State Base Grant
 20.703 – Interagency Hazardous Materials Public Sector Training and Planning Grants
 45.310 – Grants To States
 64.124 – All-Volunteer Force Educational Assistance
 66.433 – State Underground Water Source Protection
 66.817 – State and Tribal Response Program Grants
 81.041 – State Energy Program
 81.042 – Weatherization Assistance for Low-Income Persons
 81.106 – Transport of Transuranic Wastes to the Waste Isolation Pilot Plant: States and Tribal Concerns, Proposed Solutions
 81.214 – Environmental Monitoring/Cleanup, Cultural and Resource Mgmt., Emergency Response Research, Outreach, Technical Analysis
 84.011 – Migrant Education State Grant Program
 84.013 – Title I State Agency Program for Neglected and Delinquent Children and Youth
 84.282 – Charter Schools
 84.305 – Education Research, Development and Dissemination
 84.326 – Special Education Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities
 84.334 – Gaining Early Awareness and Readiness for Undergraduate Programs
 84.358 – Rural Education
 84.365 – English Language Acquisition State Grants
 84.366 – Mathematics and Science Partnerships
 84.367 – Supporting Effective Instruction State Grants (formerly Improving Teacher Quality State Grants)
 84.368 – Competitive Grants for State Assessments (formerly Grants for Enhanced Assessment Instruments)
 84.371 – Comprehensive Literacy Development
 84.372 – Statewide Longitudinal Data Systems
 84.377 – School Improvement Grants
 84.424 – Student Support and Academic Enrichment Program
 84.938 – Hurricane Education Recovery
 93.568 – Low-Income Home Energy Assistance
 93.569 – Community Services Block Grant
 93.586 – State Court Improvement Program
 93.630 – Developmental Disabilities Basic Support and Advocacy Grants
 95.001 – High Intensity Drug Trafficking Areas Program
 97.012 – Boating Safety Financial Assistance
 97.036 – Disaster Grants- Public Assistance (Presidentially Declared Disasters)
 97.039 – Hazard Mitigation Grant
 97.042 – Emergency Management Performance Grants
 97.047 – Pre-Disaster Mitigation
 97.067 – Homeland Security Grant Program
 CCDF Cluster
 Fish and Wildlife Cluster
 Highway Safety Cluster
 Housing Voucher Cluster
 Special Education Cluster (IDEA)
 Statistically valid sample – No and Not Intended to be a Statistically Valid Sample
 Type of finding – Significant Deficiency

Texas utilizes the PeopleSoft's Human Capital Management (HCM) system (referred to as CAPPS Central HR) as an HR/Payroll application for certain agencies. The application is managed by the Comptroller of Public Accounts (CPA). The CPA has implemented general IT controls, including logical access and change management controls, to help manage the system on behalf of the participating state agencies. More specifically, the Texas Higher Education Coordinating Board (THECB) and Texas Education Agency utilize CAPPS Central HR to process payroll for the Career and Technical Education program which was a major program for the fiscal year 2018 single audit. In addition, the Governor's Office, Department of Housing and Community Affairs, Military Department, Department of Public Safety, Texas Education Agency, and Texas Parks and Wildlife Department used CAPPS Central HR during fiscal year 2018 for processing payroll expenditures for other federal programs that are included in the August 31, 2018 Schedule of Expenditures of Federal Awards.

Per 2 CFR 200.303, the agencies must establish and maintain effective internal controls over Federal awards that provides reasonable assurance that they are managing Federal awards in compliance with Federal statutes, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

CPA has a change management workflow in place to confirm changes to CAPPS Central HR are authorized, tested, approved, and documented prior to deploying the change. Out of 14 selected changes implemented before March 2018, four changes lacked documented approval of system and accessibility testing and four changes lacked documented approval of user acceptance testing (UAT). Changes migrated without testing present the risk of changes to application functionality that could hinder performance or cause the application to process data inaccurately or inappropriately. The CPA remediated their process during March 2018 and a selection of changes implemented after March 2018 were found to have the appropriate documentation for authorization, testing and approval.

CPA has a process in place to utilize the Phire tool to migrate changes for CAPPS Central HR. Four developers had access to bypass the Phire tool through access to Application Designer from April 17, 2018 to May 14, 2018. The access was authorized by management but was not temporary in nature and was not monitored. Access to migrate changes to the production environment should be restricted appropriately and based on job function to help ensure adequate internal controls are in place and appropriate segregation of duties exist. Developers should not have access to migrate changes to the production environment as this introduces the risk of unauthorized changes to applications and data. All program changes during the period were found to follow the workflow in Phire.

In addition, four CAPPS Central HR developers had access to system administrator functions within the CAPPS Central HR application. Developers should not have access privileges above read-only in the production environment. This access was removed on May 14, 2018.

Twenty-nine (29) members of the Technical Team also had access to Data Mover outside of their job responsibilities. Data Mover is a PeopleSoft tool granting the ability to modify application data and run SQL statements in the production database. The existence of users with access to Data Mover outside their job responsibilities increases the risk of unauthorized changes to production data. As of August 2, 2018, access to Data Mover was restricted to a limited number of members of the Technical Team through system/service accounts. Access to these system/service accounts is managed via KeePass, a password management tool.

Total payroll and benefits expenditures for the programs noted above and included in the Schedule of Expenditures of Federal Awards for the fiscal year 2018 is noted below by agency.

Questioned Cost:	\$0
U.S. Department of Agriculture	
U.S. Department of Commerce	
U.S. Department of Defense	
U.S. Department of Housing and Urban Development	
U.S. Department of Interior	
U.S. Department of Justice	
U.S. Department of Labor	
U.S. Department of Transportation	
National Endowment for the Humanities	
U.S. Department of Veterans Affairs	
Environmental Protection Agency	
U.S. Department of Energy	
U.S. Department of Education	
U.S. Department of Health and Human Services	
Executive Office of the President	
U.S. Department of Homeland Security	

COMPTROLLER OF PUBLIC ACCOUNTS

Texas Agency	Total Payroll and Benefits Expenditures
Comptroller of Public Accounts (State Energy Conservation Office) – CFDA 81.041	\$ 536,217
Comptroller of Public Accounts (State Energy Conservation Office) – CFDA 81.106	41,534
Comptroller of Public Accounts (State Energy Conservation Office) – CFDA 81.214	139,049
Animal Health Commission – CFDA 10.025	1,820,354
Governor’s Office – CFDA 17.278 (WIOA Cluster) *	32,105
Governor’s Office – CFDA 16.540 *	6,209
Governor’s Office – CFDA 16.575 *	85,308
Governor’s Office – CFDA 16.588 *	12,257
Governor’s Office – CFDA 97.067 *	154,662
Texas Higher Education Coordinating Board – CFDA 84.048	529,440
Texas Higher Education Coordinating Board – CFDA 84.305	90,428
Texas Higher Education Coordinating Board – CFDA 84.367	157,462
Department of Housing and Community Affairs – CFDA 14.000	184,536
Department of Housing and Community Affairs – CFDA 14.228	131,400
Department of Housing and Community Affairs – CFDA 14.231	259,716
Department of Housing and Community Affairs – CFDA 14.239	1,720,411
Department of Housing and Community Affairs – CFDA 14.275	29,225
Department of Housing and Community Affairs – CFDA 14.326	63,751
Department of Housing and Community Affairs – CFDA 14.871 (Housing Voucher Cluster)	429,429
Department of Housing and Community Affairs – CFDA 81.042	211,201
Department of Housing and Community Affairs – CFDA 93.568	966,287
Department of Housing and Community Affairs – CFDA 93.569	927,179
Department of Insurance – CFDA 17.005	203,961
Department of Insurance – CFDA 17.504	2,175,344
Juvenile Justice Department – CFDA 84.013	260,681
Juvenile Justice Department – CFDA 84.027 (Special Education IDEA Cluster)	556,009
Juvenile Justice Department – CFDA 84.367	110,038
Library and Archives Commission – CFDA 45.310	1,419,412
Military Department – CFDA 12.401	17,533,980
Military Department – CFDA 12.404	4,626,180
Department of Public Safety – CFDA 11.549	50,163
Department of Public Safety – CFDA 16.575	62,455
Department of Public Safety – CFDA 16.741	353,732
Department of Public Safety – CFDA 16.742	65,197
Department of Public Safety – CFDA 20.218	36,812
Department of Public Safety – CFDA 20.600 (Highway Safety Cluster)	139,634

COMPTROLLER OF PUBLIC ACCOUNTS

Texas Agency	Total Payroll and Benefits Expenditures
Department of Public Safety – CFDA 20.616 (Highway Safety Cluster)	181,700
Department of Public Safety – CFDA 20.703	16,615
Department of Public Safety – CFDA 81.106	53,827
Department of Public Safety – CFDA 95.001	3,918
Department of Public Safety – CFDA 97.036	801,539
Department of Public Safety – CFDA 97.039	297,975
Department of Public Safety – CFDA 97.042	2,574,955
Department of Public Safety – CFDA 97.047	137
Department of Public Safety – CFDA 97.067	67,357
Railroad Commission – CFDA 15.250	1,468,929
Railroad Commission – CFDA 15.252	383,149
Railroad Commission – CFDA 20.700	3,086,653
Railroad Commission – CFDA 66.433	64,265
Railroad Commission – CFDA 66.817	48,896
Supreme Court of Texas – CFDA 93.586	563,549
Texas Education Agency – CFDA 84.010	8,470,204
Texas Education Agency – CFDA 84.011	348,523
Texas Education Agency – CFDA 84.013	13,769
Texas Education Agency – CFDA 84.027 (Special Education IDEA Cluster)	10,012,241
Texas Education Agency – CFDA 84.048	1,350,635
Texas Education Agency – CFDA 84.173 Special Education IDEA Cluster)	112,847
Texas Education Agency – CFDA 84.282	457,137
Texas Education Agency – CFDA 84.287	1,481,324
Texas Education Agency – CFDA 84.305	21,527
Texas Education Agency – CFDA 84.326	7,240
Texas Education Agency – CFDA 84.334	437,487
Texas Education Agency – CFDA 84.358	266,391
Texas Education Agency – CFDA 84.365	1,948,060
Texas Education Agency – CFDA 84.366	176,666
Texas Education Agency – CFDA 84.367	1,118,852
Texas Education Agency – CFDA 84.368	6,353
Texas Education Agency – CFDA 84.371	(2,147)
Texas Education Agency – CFDA 84.372	95,686
Texas Education Agency – CFDA 84.377	134,874
Texas Education Agency – CFDA 84.424	187,846
Texas Education Agency – CFDA 84.938	8,676
Texas Education Agency – CFDA 93.558	204,672
Texas Education Agency – CFDA 93.575 (CCDF Cluster)	127,815

COMPTROLLER OF PUBLIC ACCOUNTS

<u>Texas Agency</u>	<u>Total Payroll and Benefits Expenditures</u>
Texas Education Agency – CFDA 93.630	1,262,667
Texas Parks and Wildlife Department – CFDA 11.407 *	11,335
Texas Parks and Wildlife Department – CFDA 11.434 *	27,060
Texas Parks and Wildlife Department – CFDA 11.441 *	4,276
Texas Parks and Wildlife Department – CFDA 12.106 *	22,822
Texas Parks and Wildlife Department – CFDA 15.605 (Fish and Wildlife Cluster) *	255,656
Texas Parks and Wildlife Department – CFDA 15.611 (Fish and Wildlife Cluster) *	1,731,972
Texas Parks and Wildlife Department – CFDA 15.634 *	44,746
Texas Parks and Wildlife Department – CFDA 15.669 *	11,222
Texas Parks and Wildlife Department – CFDA 20.219 (Highway Planning and Construction Cluster) *	3,130
Texas Parks and Wildlife Department – CFDA 97.012 *	680,863
Veterans Commission – CFDA 17.801 (Employment Service Cluster) *	1,002,622
Veterans Commission – CFDA 17.804 (Employment Service Cluster) *	531,179
Veterans Commission – CFDA 64.124 *	178,574
Total	<u>\$ 78,490,024</u>

* These agencies started using CAPPS Central HR on July 1, 2018; therefore expenditures noted are for July and August 2018.

Recommendation:

As noted above, CPA has corrected the change management and access issues noted prior to fiscal year end. CPA should continue to properly segregate duties so that developers do not have access to Application Designer, Data Mover, or security functions within the production environment. If developers are determined to need access to production, adequate approval for temporary access and monitoring controls should be in place. In addition, appropriate documentation should continue to be maintained for change management.

Views of Responsible Officials:

The Comptroller's office concurs with the recommendations.

Corrective Action Plan:

Management will continue to properly segregate duties and monitor access of developers within the production environment. Additionally, management will continue to ensure appropriate documentation is maintained as part of the change management process.

Implementation Date: August 2018

Responsible Person: Alice Alvarado

Texas Higher Education Coordinating Board

Reference No. 2018-033

Special Tests and Provisions – Timely Claims Filings by Lenders or Servicers

CFDA 84.032L – Federal Family Education Loans - Lenders

Award year – July 1, 2017 to June 30, 2018

Award number – N/A

Statistically valid sample – No and Not Intended to be a Statistically Valid Sample

Type of finding – Significant Deficiency

Per 2 CFR 200.303, Texas Higher Education Coordinating Board (THECB) must establish and maintain effective internal controls over Federal awards that provide reasonable assurance they are managing Federal awards in compliance with Federal statutes, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs. Lenders are required to timely file claims with the guaranty agency for payment of death, disability, closed schools, false certification, bankruptcy, and default claims. Each type of claim has a separate timely filing requirement (34 CFR 682.402).

Questioned Cost: \$0

U.S. Department of Education

THECB Account Services obtains documentation of all death, disability, and bankruptcy claims that have not been filed and adds them to a tracker to ensure that the claims are being worked and filed timely. There were no claims listed in the tracker during fiscal year 2018. A query was run on the Laserfish system that houses these incoming claims as a method of validation of completeness and accuracy. The query yielded two death claims and one bankruptcy claim for the fiscal year. The two death claims were appropriately excluded from the tracker. The bankruptcy claim was first filed by THECB on September 21, 2017. Per the bankruptcy notice received, it stated that creditors should not file a Proof of Claim as there appeared to be no property available to creditors. This claim was then discharged on January 18, 2018 allowing THECB to pursue payment. The bankruptcy claim should have been included in the tracker until the discharge date to ensure that it was being worked and filed timely. No questioned costs were noted as the claim was appropriately excluded from being filed based on the bankruptcy notice received.

Recommendation:

THECB should ensure that the tracker used to monitor non-default claims is complete and accurate by implementing an independent validation process.

Views of Responsible Officials:

THECB agrees with the recommendation.

Corrective Action Plan:

A query was developed to ensure the proper tracking and processing of all death, disability and bankruptcy documentation and to further ensure, if necessary, claims are submitted to Trellis Company (formerly TG) timely. To ensure all documents were processed properly, the initial query was run from July 1, 2017 forward. The query was completed on November 12, 2018. No issues were identified with this query by the auditors. The query is now run on a monthly basis by the Manager of Account Services to capture all death, disability and bankruptcy claims.

Implementation Date: November 12, 2018

Responsible Person: Michelle Williams

Reference No. 2018-034

Allowable Costs/Cost Principles

CFDA 84.048 – Career and Technical Education – Basic Grants to States

Award years – September 25, 2017 to September 30, 2018 and August 8, 2016 to September 30, 2017

Award numbers – 184202067120001, 184202077110001, 184202087110001, 18420209711000, 174202067120001, 174202077110001, 174202087110001, and 74202097110001

Statistically valid sample – No and Not Intended to be a Statistically Valid Sample

Type of finding – Significant Deficiency

Per 2 CFR 200.303, Texas Higher Education Coordinating Board (THECB) must establish and maintain effective internal controls over Federal awards that provide reasonable assurance they are managing Federal awards in compliance with Federal statutes, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs. Title 2 Code of Federal Regulations Section 200.430 Compensation – Personal Services sets standards for payroll documentation which include:

Questioned Cost:	\$0
U.S. Department of Education	

- (1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:
 - (i) Be supported by a system of internal control that provides reasonable assurance the charges are accurate, allowable, and properly allocated;
 - (ii) Be incorporated into the official records of the non-Federal entity;
 - (iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);
 - (iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;
 - (v) Comply with the established accounting policies and practices of the non-Federal entity and
 - (vi) [Reserved]
 - (vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.
 - (viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:
 - (A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;
 - (B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and
 - (C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

THECB requires its employees to complete monthly time and leave reporting for employees that work on federal programs. After employees have certified their time, the employees' timesheets are routed to their supervisors for approval via a workflow. The Human Resources Department (HR) will run two lists each month, one list for timesheets with missing employee certification and one list for supervisors who have not yet reviewed their employees' timesheets. HR will then follow up with the employee or supervisor to ensure that this is completed. The reports utilized were found to be complete and accurate. Four months were selected for test work to review the reports and evidence of follow up. For certain months, there was no evidence of the reports or follow up done with employees and

supervisors. In addition, there is currently no formal tracking system to ensure that the late employees or supervisors complete the task prior to when accounting runs payroll allocation entries. No compliance exceptions were noted.

Recommendation:

THECB should retain documentation related to the reports ran for both late employee certifications and lack of supervisory review. In addition, correspondence for follow up with these specific employees and supervisors should be retained. A process should be implemented to track these employees and supervisors to ensure that they have completed their task prior to when accounting runs their payroll allocation entries.

Views of Responsible Officials:

THECB agrees with the recommendation.

Prior to the findings in this report, the human resources department (HR) was not aware that it was HR's responsibility to ensure all employees who charge time to Federal programs certified their time and all time entered was approved by managers. Instead HR had a practice of reminding and notifying managers and employees when time needed to be certified and/or approved. Therefore, in some cases HR did not follow up to ensure compliance. Following this audit report HR now understands its responsibility of ensuring compliance and having an action plan in place going forward.

Corrective Action Plan:

All THECB employees are required to certify that their CAPPs timesheet is correct each month. Beginning the first day of the following month employees can certify their time for the previous month.

- *On the 10th of each month the HR specialist will send out an agency wide e-mail reminding all agency employees to certify their time. The same email will remind supervisors to approve time for the previous month.*
- *On the 15th of each month the HR specialist will run two reports. One report will identify all employees who have not certified their time for the previous month. The second report will identify supervisors who have not approved leave for the previous month. The HR specialist will send an e-mail to each supervisor who has employees that still need to certify their time instructing them to have their employees certify their time. The HR specialist will also send emails to all supervisors who have pending leave to approve for the prior month. All emails will be sent to the supervisor and the next level manager will be copied.*
- *On the 20th of each month the HR specialist will repeat the process performed on the 15th for any employee who still needs to certify their time, and any leave that is still left unapproved. All emails will be sent to the supervisor and all other management in the chain of supervision up to the deputy commissioner.*
- *After the 20th of each month the HR specialist will run a report daily until all remaining leave is approved and timesheets are certified.*

Implementation Dates: The process described in the corrective action plan above was put in place starting January 2019. A similar process was put into effect in December 2018 to ensure compliance in the November 2018 timesheets.

Responsible Persons: Tonia Scaperlanda, Lakshmy Haridas, and Rhonda Hernandez

TEXAS HIGHER EDUCATION COORDINATING BOARD

Reference No. 2018-035

Matching, Level of Effort, Earmarking

CFDA 84.048 – Career and Technical Education – Basic Grants to States

Award year – August 8, 2016 to September 30, 2017

Award numbers – 174202067120001, 174202077110001, 174202087110001, and 174202097110001

Statistically valid sample – No and Not Intended to be a Statistically Valid Sample

Type of finding – Significant Deficiency

Per 2 CFR 200.303, Texas Higher Education Coordinating Board (THECB) must establish and maintain effective internal controls over Federal awards that provide reasonable assurance they are managing Federal awards in compliance with Federal statutes, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs. Per 20 USC 2391(b), no payments shall be made for any fiscal year to a State for career and technical education programs or tech prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for career and technical education programs for the second fiscal year preceding the fiscal year for which the determination is made.

Questioned Cost:	\$0
U.S. Department of Education	

The state maintenance of effort (MOE) requirements are monitored by the Texas Education Agency (TEA), who is responsible for submitting required information to the U.S. Department of Education. THECB receives a MOE request form from TEA on a yearly basis to fill out with self-reported information certified and received by each higher education institution. A report of fundable operating expenses (RFOE) is pulled from the PERKINS application and summarized to populate the information to provide to TEA. The IT reports were found to be complete and accurate. Certain data elements from the RFOE tables within PERKINS were not completely and accurately included in the MOE report submitted to TEA due to manual error. An estimated \$37.8 million was underreported to TEA. The underreporting did not have an impact on the MOE requirement. Therefore, there are no questioned costs.

Recommendation:

THECB should ensure the information submitted to TEA is complete and accurate.

Views of Responsible Officials:

THECB agrees with the recommendation.

The template provided by TEA each year requires a manual process to cut and paste values into the template. In this case, there was a transcription error that resulted in a transposition of values that caused the underreporting.

Corrective Action Plan:

The MOE template has been integrated into the RFOE, so there will be no need to transcribe values. The requested data will be automatically populated, and the template will be provided to TEA containing the necessary data.

Implementation Date: November 1, 2018

Responsible Person: Roland Gilmore

Committee on Agency Operations

AGENDA ITEM VI-C

Update on Internal Audit Reports and Activities

RECOMMENDATION: No action required

BACKGROUND INFORMATION:

The Internal Audit Department completed four projects since the last Agency Operations Committee meeting in January 2019. The reports include:

1. Final Report -- Status Assessment of Corrective Action Plan Implementation to Address NTT Texas Cyber Security Assessment.
2. Final Report -- A Follow Up Review of An Internal Audit of Contract Administration; this was a follow up report with three outstanding recommendations.
3. Final Report -- A Follow Up Review of An Internal Audit of Texas Educational Opportunity Grant; this was a follow up report with four outstanding recommendations.
4. Final Results Letter -- SAO Complaint #18-2394 Loan Website & Customer Service Concerns; this complaint was partially substantiated, and corrective action was taken.

Update on Internal Audit activities

Audits In Progress	Stage of Project
Review of Contract Administration	Planning
Review of Formula Funding -- Community College	Fieldwork
Review of Scholarship Programs	Planning

Other Internal Audit Activities

- Coordinated external audits:
 - KPMG Single Audit
 - KPMG Financial Statement Audit
 - State Auditor's Office Performance Measures Audit
 - U.S. Department of Education - FFELP Audit
 - Comptroller of Public Accounts – post payment audit
- Provided input on record retention

Agenda Item VI-C
Page 2

The final reports are attached. Mark Poehl, Director of Internal Audit and Compliance, will present this item to the Committee and be available for questions.



TEXAS HIGHER EDUCATION COORDINATING BOARD

P.O. Box 12788 Austin, Texas 78711

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September 24, 2018

Dr. Raymund A. Paredes
Commissioner of Higher Education
1200 E. Anderson Lane
Austin, TX 78752

Dear Dr. Paredes:

The July 2018 status report provided by management to the Agency Operations Committee was accurate regarding actions taken to implement the recommendations in the *NTT Texas Cyber Security Assessment Report* at the Texas Higher Education Coordinating Board, issued June 2017 (*see Appendix 1*).

Our review focused on assessing the accuracy of management's most recent report of corrective action status, dated July 2018. The assessment also considered actions taken between the last official report in July 2018, and our fieldwork in August/September 2018.

Our status assessment provides an outside evaluation of the agency's information security program as required on a biennial basis by Texas Administrative Code Chapter 202 Information Security. Our audit included reviewing the NTT assessment and obtaining a status update with relevant documentation to determine the implementation status.

We conducted this audit in conformance with the *International Standards for the Professional Practice of Internal Auditing*. Additionally, we conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

The NTT assessment provided 72 recommendations divided into five categories. The most significant recommendations related to areas where the "**maturity**" of a scored element was at level two, on a scale of zero to level

five. NTT scored 34 of 72 of its recommendations as level two maturity. Maturity levels zero to five are defined in *Appendix 2*.

Details	# of Recommendations
Recommendations Reported by NTT Data at Level 2	34
Areas Remaining at Level 2, Verified by Internal Audit	16
Recommendations Reported by NTT Data at Level 3	38
Areas Remaining at Level 3, Verified by Internal Audit	32

The cooperation of your staff during this review was greatly appreciated. If you have any comments or concerns on the conduct of this review, please let me know.

Sincerely,



Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance

PERFORMED BY:

Aporajita Ahmed, CPA, CFE, CITP, CGMA, CICA, Cyber Security Professional,
Internal Audit Lead

cc:

THECB

Board Members

Commissioner's Office

Ms. Linda Battles, Deputy Commissioner for Agency Operations and
Communication and COO
Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy
Mr. William Franz, General Counsel
Ms. Zhenzhen Sun, Assistant Commissioner for Information Solutions and
Services

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Appendix 1

Status Update by THECB Management in July 25, 2018

FY2018 Final Report on the
Key Initiatives
Recommended by NTT
Data regarding the Agency
Cybersecurity Framework

60x30TX
Texas Higher Education
Coordinating Board

Zhenzhen Sun
Assistant Commissioner/CIO
Information Solutions and Services

John House
Information Security Officer
Information Solutions and Services

AOC – July 25, 2018

60x30TX

Agenda

This presentation will cover the following topics:

- 2017 Agency Cybersecurity Framework Assessment Results
- Strategy to Mature Agency Cybersecurity Framework
- FY2017-2018 Security Initiatives Implementation Roadmap
- Progress Report
- FY2019 Security Initiatives Implementation Roadmap

60x30TX

2017 Agency Cybersecurity Framework Assessment Results

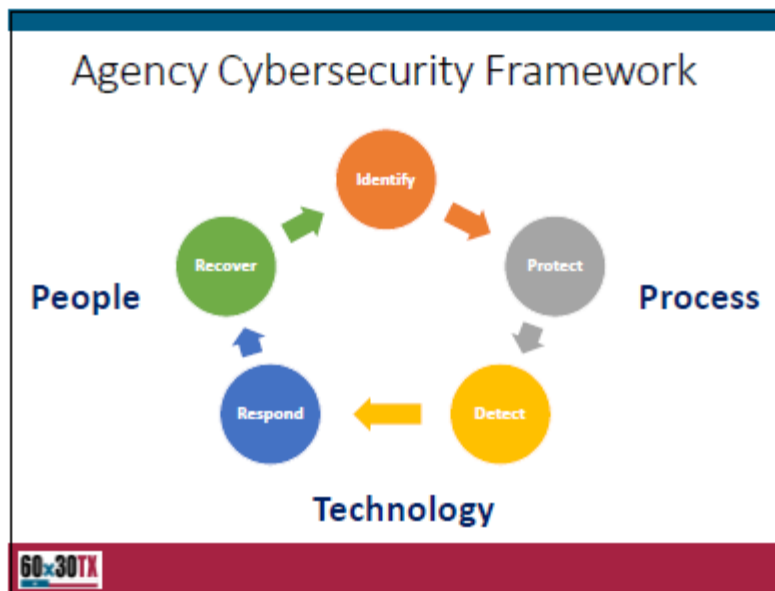
- Between April and June 2017 NTT Data, Inc., vendor contracted by the Department of Information Resources, performed an assessment of the THECB's cybersecurity infrastructure.
- NTT presented their findings and over 70 recommendations to the Board in a Special Called Board meeting on June 28th, 2017.
- Among the 40 objectives of the TX Cybersecurity Framework:
 - ❑ THECB scored **higher than** the state agency average in 34 objectives
 - ❑ 3 objectives received scores **equal to** the state agency average
 - ❑ 3 objectives received scores **lower than** the state agency average



THECB Control Objective Maturity Scores

Maturity Level	Number of Objectives
Level 3	24
Level 2	16
Total	40

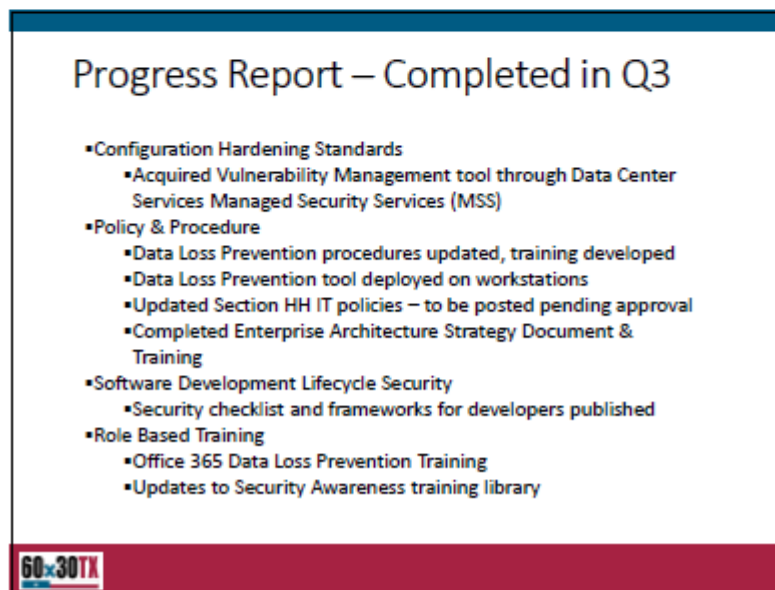
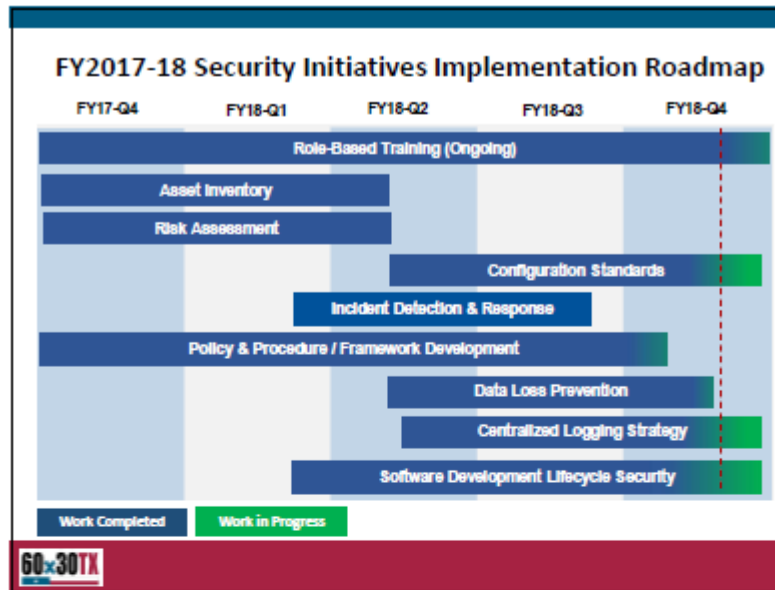




Our Strategy to Mature the Agency Cybersecurity Framework

- Information Solutions and Services division publishes the *Security Initiatives Implementation Roadmap* at the beginning of each fiscal year
- **Input**
 - Recommendations made by NTT Data
 - Control objective maturity scores
 - Business priorities, assets, people and risks
- **Output**
 - A prioritized list of projects
 - A relevant and actionable implementation roadmap

60x30TX



Cybersecurity Control Area Improvement

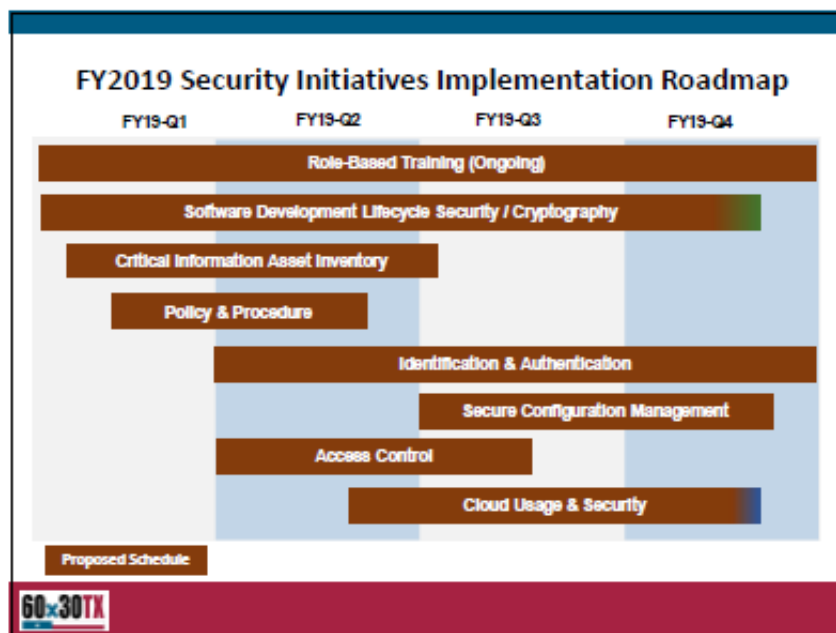
Objective	Control Area	2017	08/2018
Identify	Critical Information Asset Inventory	2	3
Identify	Information Security Risk Management	2	3
Identify	Security Compliance and Regulatory Requirements Management	2	3
Protect	Enterprise Architecture, Roadmap & Emerging Technology	2	3
Protect	Secure System Services, Acquisition and Development	2	3
Protect	Security Awareness and Training	2	3
Protect	Privacy Awareness and Training	2	3
Protect	Secure Configuration Management	2	3
Protect	Media	2	3
Protect	System Configuration Hardening & Patch Management	2	3
Protect	Data Loss Prevention	2	3
Protect	Identification & Authentication	2	3
Protect	System Communications Protection	2	3
Detect	Security Monitoring and Event Analysis	2	3
Respond	Cyber-Security Incident Response	2	3
Respond	Privacy Incident Response	2	3



Q4 Initiatives Still in Progress







- Configuration Hardening Standards
 - Implement MSS Vulnerability Management – use Qualys scans to prioritize remediation & reduce vulnerabilities
 - System Security Plans for critical applications
- Software Development Lifecycle Security
 - MSS Fortinet Web Application Firewall operational on agency websites
 - MSS Application Vulnerability Scanning integrated in the software development lifecycle
- Centralized Logging Strategy
 - MSS Security Incident & Event Management – Implement acquired services





Appendix 2

Capability Maturity Model as developed by Department of Information Resources

Maturity Levels					
LEVEL 0: Non-Existent. There is no evidence of the organization meeting the objective.	LEVEL 1: Initial. The organization has an ad hoc, inconsistent, or reactive approach to meeting the objective.	LEVEL 2: Repeatable. The organization has a consistent overall approach to meeting the objective, but it is still mostly reactive and undocumented. The organization does not routinely measure or enforce policy compliance.	LEVEL 3: Defined. The organization has a documented, detailed approach to meeting the objective, and regularly measures its compliance.	LEVEL 4: Managed. The organization uses an established risk management framework to measure and evaluate risk and integrate improvements beyond the requirements of applicable regulations.	LEVEL 5: Optimized. The organization has refined its standards and practices focusing on ways to improve its capabilities in the most efficient and cost-effective manner.
Control Objective Maturity Indicators					
					



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January 08, 2019

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Dr. Raymund A. Paredes
Commissioner of Higher Education
1200 E. Anderson Lane
Austin, TX 78752

Dear Dr. Paredes:

The Texas Higher Education Coordinating Board implemented two of the three outstanding audit recommendations from the Audit of Contract Administration report issued December 2017.

Management implemented audit recommendations by:

- By creating a workgroup to revise policies and procedures to address issues and concerns regarding grant contract management, and reorganizing the College Readiness and Success division to add a Grant Coordinator position. This position will review and monitor project costs, approved budgets, assist with risk assessments, grant closeouts, and identify process improvements. All CRS Division staff are required to attend all THECB training as a part of their performance evaluation, which includes training on the updated Grant Management Handbook.
 - The second portion of this recommendation directs THECB to “Engage in discussions with Texas State University in determining the recoupment amount that Texas State University should provide to the Coordinating Board for the inappropriate use of grant funds”. The recoupment will not to be determined until court proceedings are finished. ***This portion of the recommendation will remain “In Progress”, pending the adjudication of a criminal case for the theft of funds.***
- THECB updated the Grant Management Handbook to include core topics such as a grant manager’s responsibilities, the THECB’s standards of conduct policy, ethics, conflicts of interest, and cautions against the “appearance of impropriety.” The training also incorporates a discussion of hypothetical examples, including potential problems and conflicts caused by the scenario, potential responses, and the best course of action as recommended by the agency’s legal counsel.
- THECB updated the internal control document to include required notification to an institutions grant office if any faculty or staff is under a separate contract or grant within the CRS division.

We conducted this follow-up audit in conformance with the International Standards for the Professional Practice of Internal Auditing and in accordance with the Generally Accepted Government Auditing Standards (GAGAS).

If you have any questions or comments, please let me know.

Sincerely,



Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance
cc:

THECB
Board Members

Commissioner's Office

Dr. Raymund A. Paredes, Commissioner of Higher Education
Ms. Linda Battles, Deputy Commissioner for Agency Operations and Communication/COO
Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy
Mr. William Franz, General Counsel
Mr. Ken Martin, Assistant Commissioner for Financial Services/CFO

College Readiness and Success

Mr. Jerel Booker, Assistant Commissioner for CRS

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TEXAS HIGHER EDUCATION COORDINATING BOARD

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February 4, 2019

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Dr. Raymund A. Paredes
Commissioner of Higher Education
1200 E. Anderson Lane
Austin, TX 78752

Dear Dr. Paredes:

The Texas Higher Education Coordinating Board substantially implemented all outstanding audit recommendations from the *Audit of Texas Educational Opportunity Grant (TEOG) Administration* report issued May 2017. Additional recommendations to strengthen implementation of corrective actions related to better documentation of key processes was made separately in a management letter.

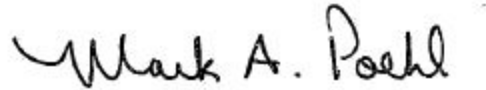
Management implemented audit recommendations by:

- Staff developed procedures to review eligibility of each institutions prior to calculating annual allocations and store documentation pertaining to accreditation and signed copy of the memorandum of understanding (MOU).
- Management updated TAC Title 19, Part 1, Chapter 22, Subchapter M with revised language that clearly defines separate calculations of the TEOG maximums for institutions.
- Financial Aid Services staff in coordination with Strategic Planning and Funding implemented a three-submission process for reporting financial aid data through the Financial Aid Database System. This process requires two reconciliations, which assists the institutions in reconciling data earlier, and lowering the amount of funds returned.
- Management worked with Information Solutions Support (ISS) to implement a quarterly policy and procedure to review employee access to databases.

We conducted this follow-up audit in conformance with the International Standards for the Professional Practice of Internal Auditing and in accordance with the Generally Accepted Government Auditing Standards (GAGAS).

If you have any questions or comments, please let me know.

Sincerely,



Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance
cc:

THECB
Board Members

Commissioner's Office

Ms. Linda Battles, Deputy Commissioner for Agency Operations and Communication/COO
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Mr. William Franz, General Counsel
Mr. Ken Martin, Assistant Commissioner for Financial Services/CFO

Student Financial Aid Programs

Dr. Charles Puls, Deputy Assistant Commissioner for SFAP

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Agenda Item VI-C

TEXAS HIGHER EDUCATION COORDINATING BOARD

P.O. Box 12788 Austin, Texas 78711

March 11, 2019

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Hillary Eckford
Audit Manager
State Auditor's Office
P.O. Box 12067
Austin, TX 78711-2067

Ms. Eckford,

Thank you for your referral of Hotline Complaint 18-2394 regarding:

1. Alleged inaccuracies with the Hinson Hazlewood College Access Loan application, and confusion regarding Coordinating Board website authenticity.

Information in the loan application included an incorrect, but functional, naming convention of a website link in the header of the loan application. The incorrect link was www.collegefortexans.com. While this domain is owned by the agency and is functional, the correct and official name for the program promoted extensively in Coordinating Board literature is the College For All Texans, with an agency-owned domain of www.collegeforalltexans.com.

The complainant apparently became confused, and concerned about website authenticity, when they noticed that the headers and content on the website they visited as directed by the loan application information, or www.collegefortexans.com, did not mention the word "All".

The College for Texans domain was purchased by the agency in the event that a customer who inadvertently left out the word "all" in website navigation could still obtain information and access necessary resources.

Loan Program Operations created www.hhloans.com as a direct site for student loan information, and updated loan documents to reflect the updated website.

2. Alleged poor customer service and handling of the borrower's parent concerning their website and application questions.

We were unable to substantiate the alleged poor referral and handling of a call from the borrower's parent. This occurred because we were unable to verify which number the parent called. Therefore, we could not confirm if

Loan Program Operations' quality control mechanisms were working properly.

We plan no further action on this matter.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl". The signature is written in a cursive style with a large, stylized "M" and "P".

Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance

Committee on Agency Operations

AGENDA ITEM VII-A

Update on Compliance Monitoring Reports and Activities

RECOMMENDATION: No action required

Background Information:

Update on Compliance Monitoring Reports

The Compliance Monitoring team completed three projects during the reporting period since the January 2019 Agency Operations Committee meeting. The final reports are attached.

Formula Funding Engagements Completed

- A Follow Up Audit of Formula Funding at Kilgore College (no findings)

Financial Assistance Engagements Completed

- An Investigation of Carl D. Perkins Basic Grant at Coastal Bend College (two findings)
(See separate report).

Other Compliance Monitoring Engagements Completed

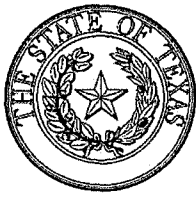
- A Desk Review of the Teacher Quality Grant at The University of Texas Permian Basin
(two findings)

Projects In Progress	Stage of Project
University of Houston-Downtown	Planning
Texas A&M University-Kingsville	Planning
Texas A&M University-Corpus Christi	Fieldwork
Cisco College	Reporting
McLennan Community College	Reporting
University of Houston	Reporting
Texas A&M University-Commerce	Reporting

Other Compliance Monitoring Activities

- Scheduled FY 2019 External Peer Review for July 2019
- Training of two new Compliance Specialists
- Preliminary work on FY 2020 Risk Assessment and Compliance Plan

The final reports are attached. Mark Poehl, Director, Internal Audit and Compliance, will present this item to the Committee and be available for questions.



TEXAS HIGHER EDUCATION COORDINATING BOARD

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March 4, 2019

Dr. Brenda S. Kays, Ed.D.
President
Kilgore College
1100 Broadway
Kilgore, Texas 75662-3204

Dear Dr. Kays,

Kilgore College implemented the recommendation in our prior report *A Compliance Monitoring Audit of Formula Funding at Kilgore College*, issued January 24, 2018.

Management has implemented the audit recommendation by:

- Capturing and retaining student information system audit logs or change history for the critical data used for formula funding.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and recommendations based on our audit objectives. We believe the evidence obtained provides a reasonable basis for the findings, if any, based on the audit objectives.

If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl".

Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance

PERFORMED BY:

Ms. Carol Conner, Compliance Specialist

cc:

THECB

Board Members

Commissioner's Office

Dr. Raymund Paredes, Commissioner of Higher Education

Ms. Linda Battles, Deputy Commissioner for Agency Operations and Communications

Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy

Mr. William Franz, General Counsel

Strategic Planning and Funding

Dr. Julie Eklund, Assistant Commissioner, Strategic Planning and Funding

Kilgore College

Mr. Larry A. Woodfin, President, Board of Trustees

Mr. Chris Gore, Dean of Enrollment Management and Student Success

Mr. John Colville, Director of Information Technology

Texas Association of Community Colleges

Mr. Jacob Fraire, President and Chief Executive Officer

State Auditor's Office

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TEXAS HIGHER EDUCATION COORDINATING BOARD

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February 20, 2019

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Dr. Sandra Woodley
President
The University of Texas at Permian Basin
4901 E. University
Odessa, TX 79762

RE: AY 2016 A-133 Evaluation and Desk Review Corrective Action Plan Acceptance
Letter
CFDA# 84.367, Award# 14286, Teacher Quality

Dear Dr. Woodley:

The Texas Higher Education Coordinating Board (THECB), as a federal pass-through entity, provides due diligence to ensure its subrecipients meet the requirements of the Single Audit Act Amendments of 1996, as prescribed in OMB Circular A-133 Compliance Supplement and Government Auditing Standards. The University of Texas at Permian Basin (UTPB) is a subrecipient of a Teacher Quality Award, #14286, CFDA 84.367.

The purpose of this letter is to issue our acceptance of the corrective action plan submitted in response to (a) the Findings from our fiscal review of your organization's Appropriation Year 2016 A-133 evaluation; and (b) any compliance issue(s) identified by our desk review of federal funds awarded to your institution by THECB.

The original findings from our January 17, 2019 Management Letter and your corresponding corrective action for each finding are noted below.

A-133 Audit Findings: Our evaluation resulted in no findings regarding UTPB's compliance with the Appropriation Year 2016 requirements of OMB Circular A-133.

Desk Review Findings: The review resulted in a total of \$186,723.23 in compliance issues. This includes \$30,303.21 in non-compliance due to a lack of supporting documentation for expenses, \$142,588.67 in non-compliance due to expenses not meeting program criteria, and \$13,831.35 in applicable corresponding indirect costs.

Lack of Supporting Documentation for Expenses.

These are items listed on the UTPB provided FY14-16 Teacher Quality general ledger that could not be reconciled to any UTPB provided supporting documentation. These amounts are listed by the related Teacher Quality categories:

Personnel	\$16,346.47
Participant Costs	\$12,021.74
Non-Participant Meeting and Travel Costs	\$1,935.00
Supplies:	\$0.00
Equipment:	\$0.00

Contractual:	\$0.00
Lack of Supporting Documentation for Expenses:	\$30,303.21

Non-Compliance Due to Expenses Not Meeting Program Criteria.

Non-compliance findings are detailed in the attached document and summarized by related Teacher Quality categories:

Personnel	\$108,153.60
Participant Costs	\$26,845.03
Non-Participant Meeting and Travel Costs	\$3,579.66
Supplies:	\$1,151.96
Equipment:	\$0.00
Contractual:	\$2,858.42
Non-Compliance Due to Expenses Not Meeting Program Criteria:	\$142,588.67

It is recommended that UTPB reimburse the THECB:

Lack of Supporting Documentation for Expenses:	\$30,303.21
Non-Compliance Due to Expenses Not Meeting Program Criteria:	\$142,588.67
	\$172,891.88
Associated Indirect Costs:	\$13,831.35
Total to Return to the THECB:	\$186,723.23

It is further recommended that UTPB tighten controls to ensure compliance with future federal grant requirements.

THE UNIVERSITY OF TEXAS AT PERMIAN BASIN Response: See Attachment 2 for UTPB Corrective Action Plan.

We have reviewed the corrective action plan submitted by UTPB and find the plan acceptable.

We greatly appreciate the cooperation and assistance provided by your staff during our review. If you have any questions or comments, please contact Elizabeth Steele via email at Elizabeth.Steele@THECB.state.tx.us or call 512-427-6418.

Thank you for your assistance,



Mark Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit & Compliance

cc: Cesario Valenzuela, CFO and Vice President of Business Affairs

Sandra Garcia, Assistant Vice President of Research and Dean of Graduate
Studies

Felecia Burns, Accounting Director

LaTanya Lowery, Chief Compliance Officer

Glenn Spencer, Chief Audit Executive

Juanita Chavez, Treasury Accountant

UTPB – FY2014-2016 Teacher Quality Federal Desk Review
Attachment 1 – Findings and Reference Citations

Findings

Lack of Supporting Documentation for Expenses: \$30,303.21

Category 1 Personnel	Personnel expenses were charged to the general ledger, but no corresponding expenses were included on the payroll register provided.	\$16,346.47
Category 2 Participant Costs	Participant cost expenses (including stipends and activity tools) were charged to the general ledger, but no corresponding documentation was provided to support these costs.	\$12,021.74
Category 3 Non-Participant Meeting and Travel Costs	Non-Participant Meeting and Travel cost expenses (including various travel costs) were charged to the general ledger, but no corresponding documentation was provided to support these expenses.	\$1,935.00
		\$30,303.21

The Teacher Quality RFA requires participants to follow the Uniform Grant Guidance for applicable federal regulations. The Uniform Grant Guidance for federal funding, requires awardees establish internal controls and ensure accurate records within its financial management system.

§200.302 Financial management (a), (b) (5) and (7)

(a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also §200.450 Lobbying.

(b) The financial management system of each non-Federal entity must provide for the following (see also §§200.333 Retention requirements for records, 200.334 Requests for transfer of records, 200.335 Methods for collection, transmission and storage of information, 200.336 Access to records, and 200.337 Restrictions on public access to records):

(5) Comparison of expenditures with budget amounts for each Federal award.

(7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.

Non-Compliance Due to Expenses Not Meeting Program Criteria: \$142,588.67

Category 1 Personnel	Time and Effort Reports and Certifications were not provided for identified personnel as listed on the general ledger and payroll register. REFERENCE/CITATION: Per Uniform Grant Guidance §200.430(i), "Charges to Federal awards for salaries and	\$108,153.60
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	wages must be based on records that accurately reflect the work performed. These records must: (i) be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated."	
	Category 1 Subtotal:	\$108,153.60

Category 2 Participant Costs	Corresponding supporting documentation (including receipts, data related to vehicle use and facility use charges, unknown purchases, mileage breakdowns, payment confirmations, meeting/workshop agendas, original charges and backup for journal entries, and travel receipts) were not provided for identified expenses listed on the general ledger. REFERENCE/CITATION: Per Uniform Grant Guidance §200.302 (a) Financial management, financial management systems "must be sufficient to permit ... the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award."	\$25,708.44
Category 2 Participant Costs	Unallowable expenses in the form of various snacks and refreshments, along with dinner, were purchased with federal grant funds over the grant review period and as listed on the general ledger. REFERENCE/CITATION: Per Teacher Quality RFA help Buttons, "No snacks, breakfast and/or dinner can be provided at Teacher Quality Grant professional development sessions and/or faculty/TQ personnel planning meetings. Refreshments are considered something to drink with the working meal (lunch) not snacks." Documentation was not provided that demonstrated an exception to this TQ practice.	\$390.71
Category 2 Participant Costs	Unallowable expenses in the form of gratuities and airfare upgrades were purchased with federal grant funds over the grant review period and as listed on the general ledger. REFERENCE/CITATION: Per UTPB Travel Policies, and Textravel as referred in UTPB Travel Policies, "tips and gratuities are NOT reimbursable under the Textravel". Further the travel policies state, "unusual expenses ... require receipts, signed advance approvals and reimbursement requests, plus a detailed explanation of why the expense was reasonable and necessary as opposed to other alternatives." Documentation was not provided that demonstrated the airfare upgrades were an exception to this UTPB travel procedure.	\$187.60
Category 2 Participant Costs	Unallowable expenses in the form of meals purchased with federal grant funds for non-overnight activities.	\$22.91

	<p>REFERENCE/CITATION: Per Textravel, as referred in UTPB Travel Policies, "The meal expense is only reimbursable if the employee is outside of his or her designated headquarters for at least six consecutive hours."</p> <p>Documentation was not provided that demonstrated activities were an exception to this UTPB travel procedure.</p>	
Category 2 Participant Costs	<p>The project requires institutions to adhere to the federal uniform grant guidance. Hotel costs exceeding the GSA rate were paid with project federal grant funds. The cost difference is unallowable.</p> <p>REFERENCE/CITATION: The Teacher Quality RFA requires participants to follow the Uniform Grant Guidance for applicable federal regulations.</p> <ul style="list-style-type: none"> • §48 CFR 31.2015-46 (a) (2) (i) Title 48 - Federal Acquisition Regulations System 31.205-46 Travel costs. <i>(a) Costs for transportation, lodging, meals, and incidental expenses.</i> (2) Except as provided in paragraph (a)(3) of this section, costs incurred for lodging, meals, and incidental expenses (as defined in the regulations cited in (a)(2) (i) through (iii) of this paragraph) shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in the— (i) Federal Travel Regulation, prescribed by the General Services Administration, for travel in the conterminous 48 United States, available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 922-002-00000-2; • §200.474 Travel Costs (d) (d) In the absence of an acceptable, written non-Federal entity policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205-46(a)). 	\$175.75
Category 2 Participant Costs	<p>Cash management issues regarding purchases with project federal grant funds including meal overcharges, unknown vendor payments, and delayed financial processing.</p> <p>REFERENCE/CITATION: Per Uniform Grant Guidance §200.302 (a) Financial management, financial management</p>	\$359.62

	systems "must be sufficient to permit ... the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award."	
Category 2 Participant Costs	<p>Miscategorized (allowable) expenses total \$132,294.20</p> <ul style="list-style-type: none"> Costs for project funded personnel should be under Category 3: Non-Participant Travel & Meeting Costs. Project related consumable supplies purchased with project grant funds should be under Category 4: Supplies. "Controlled asset" technology purchased with project grant funds should be under Category 5: Equipment. <p>REFERENCE/CITATION: Per the Teacher Quality RFA and Teacher Quality Help Buttons related project costs should be listed in the specific budget categories.</p>	\$0.00
	Category 2 Subtotal:	\$26,845.03
Category 3 Non-Participant Meeting and Travel Costs	<p>Corresponding supporting documentation (including backup documents, meeting/workshop agendas, and travel calculations and receipts) were not provided for identified expenses listed on the general ledger.</p> <p>REFERENCE/CITATION: Per Uniform Grant Guidance §200.302 (a) Financial management, financial management systems "must be sufficient to permit ... the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award."</p>	\$2,198.83
Category 3 Non-Participant Meeting and Travel Costs	<p>Unallowable expenses in the form of various snacks and refreshments, along with dinner, were purchased with federal grant funds over the grant review period and as listed on the general ledger.</p> <p>REFERENCE/CITATION: Per Teacher Quality RFA help Buttons, "No snacks, breakfast and/or dinner can be provided at Teacher Quality Grant professional development sessions and/or faculty/TQ personnel planning meetings. Refreshments are considered something to drink with the working meal (lunch) not snacks." Documentation was not provided that demonstrated an exception to this TQ practice.</p>	\$1,380.83
Category 3 Non-Participant Meeting and Travel Costs	<p>Miscategorized (allowable) expenses total \$2,077.17</p> <ul style="list-style-type: none"> Project related consumable supplies purchased with project grant funds should be under Category 4: Supplies. 	\$0.00

	REFERENCE/CITATION: Per the Teacher Quality RFA and Teacher Quality Help Buttons related project costs should be listed in the specific budget categories.	
	Category 3 Subtotal:	\$3,579.66

Category 4 Supplies	Corresponding supporting documentation (including backup documents, and meeting/workshop agendas) were not provided for identified expenses listed on the general ledger. REFERENCE/CITATION: Per Uniform Grant Guidance §200.302 (a) Financial management, financial management systems "must be sufficient to permit ... the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award."	\$1,089.15
Category 4 Supplies	Unallowable expenses in the form of various snacks and refreshments, along with dinner, were purchased with federal grant funds over the grant review period and as listed on the general ledger. REFERENCE/CITATION: Per Teacher Quality RFA help Buttons, "No snacks, breakfast and/or dinner can be provided at Teacher Quality Grant professional development sessions and/or faculty/TQ personnel planning meetings. Refreshments are considered something to drink with the working meal (lunch) not snacks." Documentation was not provided that demonstrated an exception to this TQ practice.	\$62.81
Category 4 Supplies	Miscategorized (allowable) expenses total \$2,318.84 <ul style="list-style-type: none"> "Controlled asset" technology purchased with project grant funds should be under Category 5: Equipment. REFERENCE/CITATION: Per the Teacher Quality RFA and Teacher Quality Help Buttons related project costs should be listed in the specific budget categories.	\$0.00
	Category 4 Subtotal:	\$1,151.96

Category 5 Equipment	Miscategorized (allowable) expenses total \$391.32 <ul style="list-style-type: none"> Participant training tools purchased with project grant funds should be under Category 2: Participant Costs. REFERENCE/CITATION: Per the Teacher Quality RFA and Teacher Quality Help Buttons related project costs should be listed in the specific budget categories.	\$0.00
	Category 5 Subtotal:	\$0.00

Category 6 Contractual	Corresponding supporting documentation (including backup documents, contractual agreements, original charges and	\$2,785.73
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	<p>backup for journal entries, and meeting/workshop agendas) were not provided for identified expenses listed on the general ledger. This section included journal entries which removed participant stipends from Category 6-Contractual and added these expenses to Category 2-Participant. The original charge for these stipends however, is not reflected in the general ledger to offset the removal of these expenses.</p> <p>REFERENCE/CITATION: Per Uniform Grant Guidance §200.302 (a) Financial management, financial management systems "must be sufficient to permit ... the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award."</p>	
Category 6 Contractual	<p>Unallowable expenses in the form of various snacks and refreshments, along with dinner, were purchased with federal grant funds over the grant review period and as listed on the general ledger.</p> <p>REFERENCE/CITATION: Per Teacher Quality RFA help Buttons, "No snacks, breakfast and/or dinner can be provided at Teacher Quality Grant professional development sessions and/or faculty/TQ personnel planning meetings. Refreshments are considered something to drink with the working meal (lunch) not snacks." Documentation was not provided that demonstrated an exception to this TQ practice.</p>	\$72.69
Category 6 Contractual	<p>Miscategorized (allowable) expenses total \$31,020.02</p> <ul style="list-style-type: none"> Participant stipends paid with project grant funds should be under Category 2: Participant Costs. <p>REFERENCE/CITATION: Per the Teacher Quality RFA and Teacher Quality Help Buttons related project costs should be listed in the specific budget categories.</p>	\$0.00
	Category 6 Subtotal:	\$2,858.42

Category 1	Personnel	\$108,153.60
Category 2	Participant Costs	\$26,845.03
Category 3	Non-Participant Meeting and Travel Costs	\$3,579.66
Category 4	Supplies:	\$1,151.96
Category 5	Equipment:	\$0.00
Category 6	Contractual:	\$2,858.42
Non-Compliance Due to Expenses Not Meeting Program Criteria:		\$142,588.67

It is recommended that UTPB reimburse the THECB:

Lack of Supporting Documentation for Expenses:	\$30,303.21
Non-Compliance Due to Expenses Not Meeting Program Criteria:	<u>\$142,588.67</u>

Associated Indirect Costs:
Total to Return to the THECB:

\$172,891.88
\$13,831.35
\$186,723.23

Attachment 2 –Corrective Action Plan re AY2016 Evaluation and FY2014-2016 Desk Review of UTPB’s Teacher Quality Grant



THECB Corrective Action Plan

The controls that we now have in place to address non-compliance due to a lack of supporting documentation for expenses are:

Category 1 - Personnel

1. UTPB's grant accountant reviews all personnel transaction forms on grant cost centers for budget availability and allowability based on the current grant agreement before approval is given to charge salaries and benefits against respective cost centers.
2. Once the position is filled, UTPB's Payroll Administrator will have the responsibility of regular payroll data entry, and running the monthly and semi-monthly payroll cycles, while the Payroll Manager will be reviewing, making corrections and reconciling the cycles before they are pushed out to general ledger and accounts payable. The Payroll manager currently has the responsibility of all of these duties with support from other office staff.

Category 2 – Participant Costs

1. UTPB's grant accountant reviews all requisitions on grant cost centers for budget availability and allowability based on the current grant agreement before approval is given to charge expenditures against respective cost centers.
2. UTPB now has the ability to electronically attach supporting documentation to each journal entry and voucher transaction.

Category 3 – Non-Participant Meeting and Travel Costs

1. UTPB's grant accountant reviews all requisitions on grant cost centers for budget availability and allowability based on the current grant agreement before approval is given to charge expenditures against respective cost centers.
2. UTPB now has the ability to electronically attach supporting documentation to each journal entry and voucher transaction.

The controls that we now have in place to address non-compliance due to expenses not meeting program criteria are:

Category 1 - Personnel

1. UTPB's Pre-Award staff reviews all personnel transaction forms on grant cost centers to ensure that FTE percentages are properly calculated for effort certification and reporting.

2. UTPB's grant accountant reviews all personnel transaction forms on grant cost centers for budget availability and allowability based on the current grant agreement before approval is given to charge salaries and benefits against respective cost centers.

Category 2 – Participant Costs

1. UTPB has the ability to electronically attach supporting documentation to each journal entry and voucher transaction.
2. UTPB's grant accountant reviews all requisitions on grant cost centers for budget availability and allowability based on the current grant agreement before approval is given to charge expenditures against respective cost centers.
3. UTPB's travel procedures state the following in relation to gratuities:

“While state appropriated accounts may not be used for Tips and Gratuities, local accounts and grant funds may be used to reimburse reasonable and allowable tips and gratuities up to 20% at the University's discretion.”

UTPB's travel procedures state the following in relation to travel by commercial airlines:

“The cost of commercial air transportation may not exceed the cost of University of Texas System or State-contracted airfare, if available, or if not available, then the lowest available fully refundable coach airfare. “

UTPB's travel procedures state the following in relation to meals and lodging:

“The University complies with guidelines adopted by the Texas State Comptroller. In accordance with Internal Revenue Service guidelines, meal and lodging expenses will not be reimbursed without an overnight stay.”

4. UTPB's grant accountant reviews all expenditures on grant cost centers and prepares all financial reports on grant projects. ***Pls are not allowed to produce financial reports on grant projects.*** All financial reports are reviewed and approved by the Assistant Director of Accounting or the Director of Accounting before being forwarded to the Associate Vice President of Research for approval before submission to the grant funding agency.

Category 3 – Non-Participant Meeting and Travel Costs

1. UTPB has the ability to electronically attach supporting documentation to each journal entry and voucher transaction.
2. UTPB's grant accountant reviews all requisitions on grant cost centers for budget availability and allowability based on the current grant agreement before approval is given to charge expenditures against respective cost centers.
3. UTPB's grant accountant reviews all expenditures on grant cost centers and prepares all financial reports on grant projects. ***Pls are not allowed to produce financial reports on grant projects.*** All financial reports are reviewed and approved by the Assistant Director of Accounting or the Director of Accounting before being forwarded to the Associate Vice President of Research for approval before submission to the grant funding agency.

Category 4 – Supplies

1. UTPB has the ability to electronically attach supporting documentation to each journal entry and voucher transaction.
2. UTPB's grant accountant reviews all requisitions on grant cost centers for budget availability and allowability based on the current grant agreement before approval is given to charge expenditures against respective cost centers.
3. UTPB's grant accountant reviews all expenditures on grant cost centers and prepares all financial reports on grant projects. ***Pls are not allowed to produce financial reports on grant projects.*** All financial reports are reviewed and approved by the Assistant Director of Accounting or the Director of Accounting before being forwarded to the Associate Vice President of Research for approval before submission to the grant funding agency.

Category 5 – Equipment

1. UTPB's grant accountant reviews all expenditures on grant cost centers and prepares all financial reports on grant projects. ***Pls are not allowed to produce financial reports on grant projects.*** All financial reports are reviewed and approved by the Assistant Director of Accounting or the Director of Accounting before being forwarded to the Associate Vice President of Research for approval before submission to the grant funding agency.

Category 6 – Contractual

1. UTPB is in the process of fully implementing the PeopleSoft grants module, which includes the ability to electronically attach documentation for each grant account including grant agreements and other contractual agreements.
2. UTPB currently has the ability to electronically attach supporting documentation to each journal entry and voucher transaction.
3. UTPB's grant accountant reviews all requisitions on grant cost centers for budget availability and allowability based on the current grant agreement before approval is given to charge expenditures against respective cost centers.
4. UTPB's grant accountant reviews all expenditures on grant cost centers and prepares all financial reports on grant projects. ***Pls are not allowed to produce financial reports on grant projects.*** All financial reports are reviewed and approved by the Assistant Director of Accounting or the Director of Accounting before being forwarded to the Associate Vice President of Research for approval before submission to the grant funding agency.

In addition, in an effort to increase the efficiency and effectiveness of the grant accounting section of its Office of Accounting, UTPB, in cooperation with U.T. System has issued an RFP with a scope of work that includes the following:

1. Provide training and support for the post-award accounting function for grant administration, compliance, and financial reporting for all grants awarded to the university.

2. Review all current grant files to determine status of reporting and other related matters.
3. The setup of grant cost center(s) and budgets, and reporting calendar(s) based on grant agreements.
4. Monthly monitoring and maintenance of budget/expenditure reports, changes, and reporting for State, Federal, & Private grants including submission of reports to funding agencies.
5. Monthly reconciliation of revenue and expenditure accounts with project budgets, as well as written analysis of budget variances.
6. Analysis of all grants including tracking all income and expenditures with multiple submissions.
7. Execution of funding drawdowns and submission of billings
8. Monitor encumbrance of general expenses and salaries.
9. Communication with grant PIs on funding dates, budget amendments, allowable/non-allowable costs, budget overruns, funding extensions, etc.
10. General University Staff Accountant duties such as approval of AP vouchers, entry of journals, and reconciliations of accounts as assigned



Mr. Poehl:

Thank you for the time and care you have taken to review our Teacher Quality Subaward, University of Texas Permian Basin Prime Award #12911. Please accept this letter as response to the findings reported to us on January 18, 2019. Below is each item presented in your report and our response to that item.

1. Category 1 Personnel (no support, noncompliance) No Time & Effort Reports Provided.

We agree that this was a deficiency during the time of the review period.

Megan Roth, Executive Director of Research, who joined Abilene Christian University in July 2015, implemented Time and Effort Reporting beginning August 2015. We now have an official Time and Effort Reporting policy that is posted on our website and procedures in place. All records have been collected since implementation. We have also recently submitted a proposal to upgrade our Banner systems to further improve internal controls around salary and effort reporting. We have repaid the amount requested (\$48,065.60).

2. Category 2 Participant Costs (no support)

- a. Unallowable Expense: Gratuities. PerUTPBTravelPolicies, and Textravel as

referred in UTPB Travel Policies, "tips and gratuities are NOT reimbursable under the Textravel."

The Management at ACU continues to disagree with this finding. We assert that we were not obligated to follow the internal policies of another institution. Neither the subaward document, nor any of the grant documents or federal regulations state that it is our obligation to follow the Prime's internal policies.

In 2 CFR 200 Uniform Guidance, part 200.330 (4) it states that Sub-recipients are "responsible for adherence to applicable Federal program requirements specified in the Federal award." Furthermore, in 200.331 (Requirements for pass-through entities) it states that "All pass-through entities must: (a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in a subsequent award modification.

When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes... (2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award. (3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports."

The Uniform Guidance states that costs should be applied consistently across the institution in alignment with the cost principles in Subpart E and the institutional policies. The subaward does not assign obligation to the prime internal policies but says: "Order of Precedence: Any inconsistencies in this Subaward shall be resolved by giving precedence in the following order:

- i. This Document and Attachment 1, "Representations and Certifications";
- ii. Attachment 1, "General Terms and Conditions";
- iii. Attachment 6, "Prime Award Terms and Conditions";
- iv. Attachment 3, "Subrecipient Statement of Work and Reporting Requirements";
- v. Attachment 4, "Subrecipient's Budget" or "Payment Schedule";
- vi. Other documents, exhibits, and attachments"

Further the subaward assigns the sub-recipient as "Independent Contractor. The Subrecipient is engaged as an independent contractor. Nothing in the Subaward is intended to, or shall be deemed to, constitute a partnership or joint venture between the parties..."

The Terms and Conditions of the award do not obligate that subrecipients follow the internal policies of the Prime, and that is not general practice with subawards. The Terms and

Conditions say, "Federal Regulations Applicable to All Federally Funded Contracts: 1. For Institutions of Higher Education (IHEs): 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 74, 77, 79, 81, 82, 85, 99, 104, OMB Circular A-21 (Cost Principles), 47 CFR O and 64, OMB Circular A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements)"

Circular A-110 says, "The provisions of the sections of this Circular shall be applied by Federal agencies to recipients. Recipients shall apply the provisions of this Circular to subrecipients performing substantive work under grants and agreements that are passed through or awarded by the primary recipient, if such subrecipients are organizations described in paragraph 1."

We do not see in either A-21, A-110, or EDGAR any requirements to follow the Prime's internal policies, only that the Subrecipient must follow the Federal policies and that the Prime must ensure compliance. Specifically, in respect to gratuities (Items 13 and 110), A-21 only disallows them when connected to Entertainment (J 17, Entertainment Costs). A-110 and THECB Terms and Conditions do not address gratuities. Thus, we turn to ACU's internal policies, which do not disallow gratuities. ACU's general practice is to pay meal and transportation gratuities. We will continue to follow these practices unless a particular award specifically disallows this.

b. Unallowable expense: Airfare upgrades

Since the grant period, ACU has implemented travel systems including implementing Concur pre- and post-approvals. Megan Roth, Executive Director of Research, is an approver for all grant-related travel to ensure allowability.

c. Unallowable expense: Meals for non-overnight activities

Since the grant period, ACU has implemented expense card monitoring controls to ensure allowability of expenditures. In addition, we have tightened our policies on food purchases from grant funds.

We have repaid **all** amounts requested in this category (\$210.51).

3. Category 2 Participant costs (noncompliance)

The Management at ACU continues to disagree with this finding. We assert that we were not obligated to follow the internal policies of another institution, which includes Textravel.

According to the award, we are obligated to follow A-21 which says, "b. Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the institution in its regular operations as

the result of the institution's written travel policy. In the absence of an acceptable, written institution policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57, Title 5, United States Code ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter shall apply to travel under sponsored agreements (48 CFR 31.205-46(a))."

ACU had a travel policy in place at the time of this award, which did not require employees to follow GSA rates but rather practice prudence in selecting a hotel and its rates. ACU's travel policy may be found here: <http://www.acu.edu/community/offices/hr-finance/hr/employee-handbook/travel-and-expenses.html>

ACU is currently in the process of revising its travel policy to provide further guidance on allowable lodging and food per diems. We have repaid the amount requested (\$23.98).

4. Category 3 non-participants meeting and travel costs (no support, noncompliance)
 - a. No agenda provided

Since the grant period, ACU has implemented expense card monitoring controls to ensure allowability of expenditures and proper documentation. In addition, we have tightened our policies on food purchases from grant funds.

- b. Unallowable Expense: Snacks

The Management at ACU continues to disagree with this finding. The prohibition against snacks is not listed in the RFP or the Terms & Conditions for the grant. We were instructed during the audit that the information disallowing snacks was located in a Help button on the budget proposal page. Historically, the agency has only allowed the PI at the Prime access to the proposal budget module. Further, the sub-recipient management team had no access to the proposal budget module and no way to know then that snacks were disallowed. The subrecipient management team could not have been expected to implement internal controls for this cost without the information being passed down to us.

That being said, since the grant period, ACU has implemented expense card monitoring controls to ensure allowability of expenditure and proper documentation. In addition, we have tightened our policies on food purchases from grant funds. We are also developing criteria to evaluate future relationships with prime and subrecipient institutions.

We have repaid all amounts requested (\$3,579.66).

5. Category 6 Contractual (no support, noncompliance) Agreements missing
- Since the grant period, ACU has implemented controls to ensure that contractals are in

place for work on grant -funded activities. The Office of Research and Sponsored Programs has implemented training with PIs that includes the necessity of contractuals. We do require contracts to be in place with any external contractors. No contracts will be paid out unless a completed and signed contract is filed with the Office of Research and Sponsored Programs. This requirement is outlined in the "Policies and Procedures for External Awards: Costs: General Considerations and Requirements for procurement on federal awards (200.318 -323) (3) Contracts (Appendix H) must be established between ASU and any outside professional service that will be charged to a federal award. Contracts must include the provisions of Appendix II of 2 CFR 200, as required in 200.326." This compliance is monitored through the ORSP office through budget monitoring, education, and monitoring of requests for payments through Accounts Payable. We have repaid all amounts requested (\$15,515).

Thank you again for the time and consideration you have given to this review. We hope that you find our responses to be thorough and accurate. If you have any questions about our responses, please do not hesitate to set up a phone meeting with Megan Roth, Executive Director of Research (325-674-2885), and Karen Gililand, Controller (325-674-2853).



Thank you for the opportunity to respond to the Texas Higher Education Coordinating Board (THECB) Audit Findings on Angelo State University's (ASU's) Subaward from the University of Texas at the Permian Basin. The following Corrective Action Plan is based on the specific findings identified by the THECB, and it is designed to address the issues that resulted in the findings and to mitigate the possibility of them happening in the future.

Most of the corrective actions recommended in this document were implemented by the responsible parties in 2017-2018 in response to Texas Tech University System internal audits and reviews of internal controls, which took place before this audit commenced but after the questioned transactions occurred. ASU staff will continue to follow these actions as new awards are received.

Summary of Findings

- Participant Support Costs (\$4,402.35)
 - No support documents/no agenda
 - Unallowable cost – snacks and dinner
 - Unsupported cost – missing receipt
- Supplies (\$1,151.96)
 - Unallowable cost – project

Response to Findings: Missing documentation and unallowable costs

Discussion: Although the PI on the project maintained daily lesson plans and sign-in sheets from the participants, it was learned after the project's close that the Request for Applications (RFA) and the THECB's grant management system "Help Buttons" required more detailed information for working lunches, including a schedule bearing the phrase "working meal" and a description of the technical dissemination to take place during the meal. Additionally, the RFA included prohibitions on snacks and working dinners for participants and working meals for program faculty. The subaward documents did not include copies of the RFA or access to the THECB's Help Buttons, which were only accessible by the prime recipient.

Action Plan:

1. Obtain electronic copies of the RFA and ancillary materials (e.g., information from "Help Buttons") from prime recipients/funders, ideally during pre-award but no later than the time of award. Upon receipt, upload the RFA and related documents to the university's document management system (OnBase) for future use/reference by PIs and sponsored projects and accounting staff.
2. Upon setup of the new grant expense account, the Office of Sponsored Projects will convene a new project setup meeting with the project's principal investigator/project director (PI/PD) and grant accountant to review key terms and conditions of the award to ensure the PI/PD's compliance with them. Documentation for and allowability of higher risk items of cost, such as food purchases, will be reviewed during these sessions.
3. During the post-award period, the Grant Accountant will review the approved budget and notice of award in concert with the RFA to ensure compliance with the funder's guidelines for documentation and allowability of costs.
4. Because of the enhanced risk associated with expenditures for food, ASU will review and, as needed, update its processes for: a) including food in grant budgets during the pre-award phase, and b) reviewing those expenditures during the post-award phase.

Responsible Parties: Katie Plum, Director of Sponsored Projects; Carrie Whitesell, Grant Accountant

Implementation Date: Items 1-3: Completed; Item 4: By May 31, 2019

Response to findings: Unsupported cost

Discussion: The receipt for a dinner expense was not submitted with the original supporting documentation, but it was later found (attached). However, because the expense was unallowable, it is still a finding. Recommendations for addressing the finding are provided in the preceding section.