

TCDD Administrative Rules Review	Tab 7
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Background:

State agencies are responsible to review administrative rules adopted by the agency at least once every four years and to readopt rules when there is a continuing need, with revisions as appropriate. TCDD last reviewed and readopted rules in 2012.

Staff recommendations for amendments to TCDD Rules are behind this Tab. The Executive Committee is asked to review and recommend proposed amendments to the Council for consideration. Once approved, proposed amendments will be posted in the Texas Register for a 30-day public comment period. The Council will review any public comments received during the August meetings and approve final adoption of the amendments to TCDD rules.

Documents Include:

- **Texas Administrative Code (TAC)** – proposed revisions. The Committee will consider approval to post in the Texas Register for public comment.
- **Council Policies** – detailed language to support the revisions to the TAC. The Committee will consider approval of these policy revisions during the February 2016 meeting.

<p><u>Executive Committee</u></p> <p><u>Agenda Item 10.</u></p>	<p><u>Expected Action:</u></p> <p>The Executive Committee will review the information provided and may recommend Council approval.</p>
<p><u>Council</u></p> <p><u>Agenda Item 10.</u></p>	<p><u>Expected Action:</u></p> <p>The Council will consider Executive Committee recommendations on this subject.</p>

TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES
ADMINISTRATIVE RULES
TEXAS ADMINISTRATIVE CODE TITLE 40, PART 21

SUMMARY OF PROPOSED AMENDMENTS

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
PART 21. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES
CHAPTER 877. GRANT AWARDS
40 TAC §877.1 AND §877.3

The Texas Council for Developmental Disabilities (Council) proposes an amendment to §877.1 concerning General Provisions.

Elsewhere in this issue of the Texas Register, the Council proposes amendment to §877.3 to add Payment Withhold to Grant Awards.

The purpose of this amendment to this section is to apply consistent equitable consequences to Council award recipients in the event they are found to be non-compliance with reporting requirements. To provide uniform guidance to apply consistent procedures that may result in withholding payment or reduction of payments. This amendment will add Payment Withhold, which may grant a payment withhold pending the result of corrective action, partially restoring funds or grant funds are suspended.

There may be fiscal implication as a result of enforcing these sections as proposed.

Comments on the proposal may be submitted to Martha Cantu, 6201 E. Oltorf, Suite 600, Austin, Texas 78741-7509, or e-mail comments to: martha.cantu@tcdd.texas.gov.

The proposed amendments are authorized under the Texas Human Resources Code, §112.020, which provides authority for the Council to adopt rules as necessary to implement the Council's duties and responsibilities.

The amendments will effect Texas Human Resources Code, Title 7, Chapter 112, Developmental Disabilities.

TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES

ADMINISTRATIVE RULES

TEXAS ADMINISTRATIVE CODE TITLE 40, PART 21

Chapter §876 General Provisions

Chapter §877 Grant Awards

**Proposed Amendments
August 2016**

Texas Administrative Code

Title 40 Part 21

Social Services Texas Council for Developmental Disabilities

Chapter §876	General Provisions
§876.1	Definitions
§876.2	Legal Authority
§876.3	Administration
§876.4	Responsibilities of the Council
§876.5	TCDD State Plan
§876.6	Powers and Duties of the Executive Director
§876.7	Committees of the Council
§876.8	Standards of Conduct
§876.9	Charges of Access to Public Records
§876.10	Petition for Adoption of Rules
876.11	Applicability of Open Meetings Law
§876.12	Alternative Dispute Resolution Process
Chapter §877	Grant Awards
§877.1	General
§877.2	Application and Review Process
§877.3	Payment Withhold , Suspension or Termination of Funding
§877.4	Appeal of Funding Decisions
§877.5	Confidentiality of Records

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 21. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES

Chapter 876. GENERAL PROVISIONS

§876.1 Definitions

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Council --Texas Council for Developmental Disabilities.

(2) Designated State agency -- the State agency designated by the Governor to provide administrative support to the Council.

(3) Developmental disability – The term "developmental disability" has the meaning as defined in federal law, the Developmental Disabilities Assistance and Bill of Rights Act as amended (42 USC 6000 et seq).

(4) Executive director -- Chief administrative officer of the Texas Council for Developmental Disabilities.

(5) Grant – An award of financial assistance, including cooperative agreements, in the form of money, property provided in lieu of money, or other financial assistance paid or furnished by the Council to an eligible recipient to carry out a program in accordance with the rules, regulations and guidance provided by the Council.

§876.2 Legal Authority

(a) These rules are adopted under provisions of the Texas Human Resources Code, Title 40, Chapter 112.

(b) The following federal laws and regulations are adopted by reference into this part:

(1) Developmental Disabilities Assistance and Bill of Rights Act as Amended (U.S.C. 6000 et. seq.); and

(2) Developmental Disabilities Program, 45 Code of Federal Regulations, Parts 1385-1387.

§876.3 Administration

(a) The Texas Council for Developmental Disabilities is a joint state-federal program designed to assist people with developmental disabilities and their families to participate in the design of and have access to needed community services and supports, and to promote the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities.

(b) The Council performs its responsibilities through staff activities, grants or contracts to public, or nonprofit, or private for-profit organizations and in other ways as determined by the Council to carry out the state plan.

(c) The Council shall enter into a memorandum of understanding with the designated state agency which sets forth their respective roles;

(d) The designated state agency carries out the functions set forth in applicable federal and state laws and regulations and the memorandum of understanding with the Council.

§876.4 Responsibilities of the Council

The Council is an agency within the executive branch, but functions independently within its statutory authority to serve the long-term public interest. The Council is responsible for

establishing the policy framework through which the agency carries out its statutory responsibilities. Specifically, the Council shall:

- (1) exercise the authority provided by law to adopt policies and rules governing Council activities;
- (2) develop and implement policies that clearly separate the policymaking authority of the Council and the management responsibilities of the executive director and staff of the Council;
- (3) approve the state plan and amendments;
- (4) serve as an advocate for state and federal legislation, appropriations and policies on behalf of individuals with developmental disabilities as authorized by federal law;
- (5) oversee operations of the Council for integrity, effectiveness, and efficiency;
- (6) approve personnel policies that provide for the selection, supervision, and evaluation of the executive director and staff
- (7) ensure projects and activities comply with all applicable federal and state requirements; and
- (8) carry out other responsibilities as provided by Council policies.

§876.5 TCDD State Plan

The Council develops and submits the "TCDD State Plan for Texans with Developmental Disabilities" in a manner consistent with federal law and regulations. The state plan may be revised and updated after public review and comment as provided by the federal requirements. The plan is available from the offices of the Texas Council for Developmental Disabilities.

§876.6 Powers and Duties of the Executive Director

The executive director is responsible for the effective and efficient administration of the affairs of the Council subject to applicable laws and this chapter and under the general direction of the Council. The director shall select, supervise and evaluate staff to implement Council approved activities consistent with policies approved by the Council. The director may delegate responsibilities to Council staff as appropriate.

§876.7 Committees of the Council

The Council may establish standing and special committees of Council members to expedite the work of the Council. Members shall be appointed to Committees in the manner provided by Council policies.

§876.8 Standards of Conduct

- (a) Standards of conduct of members and employees of the council are governed by Texas Government Code Annotated, Chapter 572, and by Human Resources Code Chapter 112.0161.
- (b) Council members and staff shall adhere to the conflict of interest policy approved by the Council.

§876.9 Charges of Access to Public Records

- (a) The charge to any person requesting copies of any public record of the Council will be the charge established by the Buildings and Procurements Commission at 1 TAC §§111.61-111.70.
- (b) The Council may reduce or waive these charges at the discretion of the executive director if there is a public benefit.

§876.10 Petition for Rules or Changes to Rules

Any interested person may petition the Council for a rule or rule change by submitting a request to the executive director in a manner and form as directed by the Council, consistent with state law.

§876.11 Applicability of Open Meetings Act

(a) The official minutes of all Council and committee meetings are kept in TCDD staff offices, are posted on the TCDD website, and are available for public review as authorized by the Open Meetings Act.

(b) Opportunities to provide public comments are provided at each Council and committee meeting. The chair of the Council or committee may limit each person presenting public comments or public testimony on any agenda item to a certain number of minutes by announcing the period when comments or testimony are given.

§876.12 Alternative Dispute Resolution

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used by the State and any other party to attempt to resolve any claim for breach of contract made by any party against the State as applicable.

Chapter 877 GRANT AWARDS

§877.1 General

(a) As authorized by Human Resources Code Title 7, Chapter 112.020 (a)(3), the Council may contract or provide grants to public or private organizations to implement the TCDD State Plan for Texans with Developmental Disabilities, if funds are available.

(b) The Council may solicit proposals from state agencies, non-profit organizations, or private for profit organizations that have organizational expertise related to the requirements of the proposal.

(c) The Council may accept unsolicited proposals or unsolicited ideas for future projects consistent with Council policies and procedures.

(d) The Council may develop projects with organizations without competitive proposals as allowed by state and federal requirements and Council policies.

(e) All grantees shall comply with applicable state and federal requirements including the Texas Uniform Grant Management Standards. Office of Management and Budget (OMB) circulars, and Council grants procedures.

(f) Independent audits of grantees are required for each year of funding in accordance with the requirements of OMB Circulars and Texas Uniform Grant Management Standards. Project specific independent reviews and other procedures may be required of grantees not subject to annual independent audit requirements of OMB or UGMS consistent with Council policies. The Council shall reimburse the grantees for the reasonable cost of the required audit activities.

(g) Grant awards shall contain appropriate provisions for program and fiscal monitoring and for collection and submission of evaluation data and related reports.

(h) The Council may limit by policy the amount of Council funds allowed to reimburse indirect costs of projects. Any indirect costs of a grantee above those amounts may be allowed as part of the required non-federal participant share.

- (i) The Council may by policy reduce reimbursements to grantees when required reports or final expenditure reports are not submitted within at least 60 days following the established due date.**

- (j) Donated time and services may be included as a financial match contribution unless otherwise restricted by a specific request for proposals or by state or federal requirements.
- (k) No organization shall receive more than three (3) direct grants from the Council at any time.

§877.2 Application and Review Process

- (a) All requests for proposals will be published in the Texas Register and posted on the Council's website, and a notice will be provided to interested parties.
- (b) Proposal information for each request for proposal shall be available upon request from Council offices and will be made available at the Council's website.
- (c) Proposals received after the closing date will not be considered unless an exception is approved in a manner consistent with Council policies.
- (d) Projects seeking continuation funding may have separate application forms, instructions, and procedures, as determined by Council staff.
- (e) Grants shall be awarded based on guidelines that reflect state and federal mandates. Selection criteria shall be designed to select applications that provide best overall value to the state and to the Council and meet the requirements and intent of the Council as provided in the request for proposals.
- (f) Final approval of organizations to receive grant funding shall be determined by the Council consistent with Council policies.
- (g) Council staff may negotiate with selected applicants to determine the final terms of the award.

§877.3 Payment Withhold, Suspension or Termination of Funding

- (a) If a grantee fails to comply with the terms of the grant, the Council may **withhold payment**, suspend authority to obligate or receive grant funding pending the result of corrective measures.
- (b) The Council, in its complete discretion, may terminate authority to obligate or receive grant funding prior to the end of the funding period if corrective actions are not taken during the suspension period, or if the deficiency is serious enough to warrant immediate termination.
- (c) A grant, or portion thereof, may also be terminated at the grantee's request by approval of the Council executive director.
- (d) The procedure to request reconsideration of a suspension or termination of funding shall be included in grant award materials.

§877.4 Appeal of Funding Decisions

Appeals may be submitted from applicants for grants who did not receive funding or from grantees whose grants have not been awarded continuation funding. The appeals process adopted by the Council shall be included in grant application materials.

§877.6 Confidentiality of Records

A grantee that provides direct services to individuals under a Council grant must have a system to protect client records from inappropriate disclosure. Disclosure of confidential information must be in accordance with applicable law.

Texas Council for Developmental Disabilities

Council Policies

Draft Amendments: Sections I and J

IX. TCDD GRANTS PROJECTS

(Last Revised 05/06/11)

A. Scope

1. As authorized by 40 TAC 112.020 (a)(3), the Council may contract or provide grants to public or private organizations to implement the TCDD State Plan for Texans with Developmental Disabilities, if funds are available.
2. These sections govern the submission and review of project proposals and the award, amendment, and termination of project contracts.

B. Overview of TCDD Grants

1. The Council will identify priorities for funding projects based on the approved TCDD State Plan for Texans with Developmental Disabilities.
2. Sources.
 - (a) The Council may solicit proposals from state agencies, non-profit organizations, or private for profit organizations that have organizational expertise related to the requirements of the proposal.
 - (b) Unsolicited proposals may be submitted by organizations consistent with procedures approved for such submissions by the Project Development Committee.
 - (c) The Council may develop projects with organizations without competitive proposals when only one known best expert is available, for business necessity, or when otherwise allowed by Council determination.
 - (d) Nothing herein shall be construed to prohibit any firm, agency, or organization with which any member of the Council is associated from receiving a grant from the Council providing the Council member does not receive compensation or financial gain from the grant.
3. Requests for Proposals will be published in the Texas Register and a notice will be provided to organizations on the Council's Web site and mailing list.
4. TCDD may reject all applications submitted in response to a request for proposals and may cancel a grant solicitation at any point before a grant award is finalized.
5. Council staff provides technical assistance and support to grant projects including training for new grantees. Council staff also monitor grantee accomplishments and compliance with TCDD Grants procedures by conducting one or more on-site monitoring visit(s) to each grant project annually unless otherwise provided by a risk assessment methodology approved by the Audit Committee. Summary reports of on-site visits are provided to the Executive Committee.
6. TCDD funds shall not be used to conduct clinical research.

C. General Selection Criteria

1. Grants shall be awarded based on guidelines that reflect state and federal mandates. Selection criteria shall be designed to select applications that provide best overall value to the state and to the Council.
2. Evaluation Criteria shall include but not be limited to:
 - (a) program quality as determined by a peer review process; and
 - (b) the cost of the proposed project.

3. The Council may consider additional factors in determining best value, including:
 - (a) financial ability to perform services;
 - (b) state and regional needs and priorities;
 - (c) improved access for unserved or underserved areas and or groups of individuals;
 - (d) ability to continue services after conclusion of grant funding, if applicable; and
 - (e) past performance and compliance.

D. Application Requirements

1. Council staff shall develop a "Grant Application Packet" for each Request for Proposal. Grant Application Packets shall be available upon request from the Texas Council for Developmental Disabilities with each Request for Proposal and will be made available at the Council's Web Site.
2. The Grant Application Packet will include at a minimum:
 - (a) goals describing the purpose for the grant program;
 - (b) eligibility requirements;
 - (c) description of the project activities and outcomes;
 - (d) application forms and instructions;
 - (e) application requirements and restrictions; and
 - (f) selection criteria and the process to evaluate grant proposals and select proposals for awards.
3. The Applicant shall use the format included in the Grant Application Packet. A proposal which is submitted in a format that is substantially different from the Council's format will not be considered.
4. Proposals received after the closing date will not be considered, unless an exception is approved. The Executive Director is authorized to approve requests for exceptions for good cause received prior to the closing date. Exceptions requested after the closing date may be approved only by the Executive Committee. Any exceptions shall be documented in writing and retained as part of the grant application file.
5. Projects seeking continuation funding may have separate application forms, instructions, and procedures, as determined by Council staff.

E. Screening of Proposals

1. Council staff will screen applications to determine if all information has been provided in a timely fashion, on prescribed forms.
2. An application must be complete for consideration and shall include a signature by the proper authorizing official.
3. Council staff will provide written notification to applicants eliminated through the screening process.

F. Peer Review Process

1. The Council shall use peer reviewers to evaluate proposals submitted in competitive requests for proposals, exclusive of stipends grant proposals when the award is greater than \$15,000.
2. Council staff shall serve as the review panel for stipends grant proposals and for other grants when authorized funding \$15,000 or less yearly.
3. All reviewers shall disclose any conflicts of interest with individuals associated with applications to be reviewed.
4. The Executive Director shall submit recommendations for Review Panel members to the Executive Committee for approval. Council members and staff will be asked for suggestions of professionals and public citizens to evaluate proposals. Reviewers may not evaluate proposals in which there is, or is an appearance of, a conflict of interest.

5. Council staff shall provide written instructions and training for all Review Panel members.
6. Council staff shall convene a meeting with each Review Panel and shall record the summary evaluation of the review of each proposal.

G. Funding Decisions

1. Council staff shall submit a recommended priority ranked list of applicants for possible funding. Final approval of organizations to receive grant funding exclusive of stipends grant awards, shall be determined by the Executive Committee.
2. Final approval of organizations to receive grant funding for stipends projects shall be made by the Executive Director. Notice of such actions shall be provided in a timely manner to the Executive Committee and Council.
3. Council staff may negotiate with selected applicants to determine the final terms of the award. To receive an award, the applicant must agree to perform the activities as presented in the request for proposals and accept any additional or special terms or conditions listed in the grant award and any changes in the grant application. Any revisions to the project proposal shall become part of the grant award and shall be documented in writing.
4. Grant awards shall contain appropriate provisions for program and fiscal monitoring and for collection and submission of evaluation data and related reports.
5. Applicants must give assurances that the grantee will abide by the terms of the grant award; the Uniform Grant Management Standards (UGMS) adopted by the Governor's Office of Budget and Planning, and federal Rules related to these funds promulgated by the Office of Management and Budget (OMB) where applicable, as determined by Council staff; and these policies.
6. The Council Executive Director may negotiate and approve changes in the project proposal that address concerns and weaknesses noted from the review process, and/or which assure consistency with the intent of the RFP. Any revisions to the project proposal shall become part of the grant award and shall be documented in writing.
7. Council staff shall notify unsuccessful applicants in writing.

H. Continuation Funding

1. Projects may be eligible for continuation funding as specified in the original request for proposals. Continuation funding will not be automatic. Consideration for continuation funding will include a review of the project's accomplishments, progress toward stated goals and objectives, financial management of grant funds, compliance with reporting requirements, review of the most recent project audit, review of findings from TCDD onsite reviews, and development of alternative funding. The grantee shall submit a proposal for continuation funding as requested by TCDD staff.
2. The Executive Committee may approve continuation grants after a review in accordance with the provisions of these policies. A summary of past accomplishments and future activities of each project awarded continuation funding shall be provided to the Council.

I. Appeal of Funding Decisions

1. Appeals may be submitted from applicants for grants who did not receive funding or from grantees whose grants have not been awarded continuation funding. The person or entity appealing shall be known as the appellant. **An appeal is not an opportunity for an applicant to provide additional information that could have been included in the original proposal. To do so would create a two-stage review process that is not part of the Council's current policies.**
2. Appeals of funding decisions shall be received, processed, and resolved with fairness and promptness.

3. The appellant shall file an appeal in writing addressed to the Executive Director. The written appeal must be postmarked within 10 workdays of the date of the written notice of suspension or within 15 workdays of the date of written notice of denial or of continuation funding. The written appeal shall include all relevant facts and information that the appellant wishes to have considered as well as the proposed remedy being sought. The Executive Director will acknowledge receipt of the letter with a copy to the Executive Committee.
4. The Executive Director will investigate, compile, and study all relevant information about the appeal and, within 30 workdays of the receipt of the appellant's letter and submit a written report to the Executive Committee. The report will contain an evaluation of whether TCDD procedures were followed and whether information provided was reviewed fairly and objectively; recommended action; and the evidence supporting the recommended action. **The report may not include an evaluation of additional information provided by the appellant when such information could have been included in the original proposal.**
5. The Executive Committee may approve the recommendations of the Executive Director, make such modifications as deemed appropriate, order further investigation, or take other appropriate action.
6. The decision of the Executive Committee is final.
7. Council staff shall notify the appellant of the final determination of the appeal.

J. Payment Withhold of Grant Funding

1. **The Executive Director may grant a payment withhold of grant funding for a grant project prior to the end of the grant budget period pending the result of corrective measures if a grantee fails to comply with the terms of the grant, after consulting with the Council Chair. The Executive Committee shall be notified of any payment withhold.**
2. **TCDD shall provide written notice to the grantee of the proposed payment withhold of grant funding at least 10 workdays (2nd revised deadline) prior to any withheld payments.**
3. **That notice shall state the reasons for the payment withhold of funding and the procedure for requesting reconsideration.**
4. **If report(s) are not received by the 2nd revised deadline (10 business days from the initial request), TCDD will implement an immediate hold on all payments to the grantee pending receipt of any late report(s).**
5. **When late reports are received from a project after a payment hold has been initiated, TCDD will restore payment for requests pending for not more than 60 days but may partially restore payments for the any period beyond 60 days in arrears as outlined.**
6. **The payment withheld will be rescinded and any outstanding payment requests processed, except that:**
 - (a) **Payments will be restored for only the past 60 days. Reimbursements for any period of a payment withheld for more than 60 calendar days may be partially restored in the following manner:**
 - (b) **Payments for the period from 60 – 90 days will be restored at 90% of the requested amount.**
 - (c) **Payments for the period from 90 – 120 days will be restored at 50% of the requested amount.**
 - (d) **Payments for the period longer than 120 days past will not be restored.**
7. **A Notice of Grant Award for any project that is more than 60 days late in submitting required reports will be prepared with a payment hold in place until all reports are**

received. The same schedule for reducing the amount of payments restored as noted above will apply.

8. Any reports required from the prior grant award period will cause the subsequent award to be subject to the same payment withhold process and schedule for partially restoring payments.
9. In the event that withheld payments are not fully restored, the grantee may appeal to the Executive Director. Any appeal will be considered by the Executive Committee at its next regularly scheduled meeting. Actions of the Executive Committee on such appeals are final.(Item I – Appeals)
10. Payment withhold will remain in effect until the grantee has taken corrective action, given an assurance approved by the Executive Director that the corrective action will be taken, or the grant is suspended (Item K).

K. Suspension of Grant Funding

The Executive Director may suspend grant funding for a grant project prior to the end of the grant budget period pending the result of corrective measures if a grantee fails to comply with the terms of the grant, if anticipated outcomes or deliverables are no longer viable, or if the original purposes for which funding was approved are no longer evidenced. The Executive Committee shall be notified of any suspensions.

1. TCDD staff shall provide written notice to the grantee of the proposed suspension of grant funding at least 10 workdays prior to any suspension except as provided by Section L, Subsection 3. That notice shall state the reasons for the suspension of funding and the procedure for requesting reconsideration.
2. A suspension may be effective immediately if, after consulting with the Council Chair, the Executive Director determines that delayed action does not protect the interests of the Council.
3. A grantee shall have the opportunity to request reconsideration of the suspension of grant funding. The grantee must provide a written request for reconsideration to the Executive Director no later than 10 workdays after receiving notice of suspension of funding. A request for reconsideration must include all facts and information the grantee considers to be relevant to the situation and a proposed plan of correction. If a grantee does not request reconsideration in writing within the specified time period the grantee will be deemed to have waived any further review and grant funding will be suspended.
4. If the Executive Director determines that the responses of the grantee are not satisfactory, the grantee's authority to obligate funds may be suspended. TCDD staff shall provide the grantee a written notice of suspension that will set the effective date for suspension and identify any allowable costs that the grantee may incur during the period of suspension.
5. Suspensions remain in effect until the grantee has taken corrective action, given an assurance approved by the Executive Director that the corrective action will be taken, or the grant is terminated.

L. Termination of Grant Funding

1. The Council or the Executive Committee may terminate grant funding prior to the end of the grant budget period if a grantee fails to comply with the terms of the grant, if anticipated outcomes or deliverables are no longer viable, or the original purposes for which funding was approved are no longer evidenced.
2. The Executive Director may recommend to the Executive Committee termination of grant funding if corrective actions are not taken during a suspension period or if the corrective actions are not sufficient to remedy the concerns. In such instances, the Executive Director shall provide a summary report to the Executive Committee including the reasons

for which a termination of funding is recommended, additional information provided by the grantee pursuant to a request for reconsideration, if any, corrective actions proposed by the grantee, and the proposed date for termination of funding.

3. The grantee shall be provided written notice of the recommendation to terminate funding at least 10 workdays prior to the meeting of the Executive Committee to consider that recommendation. Such notice shall include the date and location of the Executive Committee meeting where the recommendation to terminate funding will be considered.
4. The decision of the Executive Committee is final.
5. The Executive Director may also recommend to the Executive Committee that grant funding be terminated without an initial suspension of funds. In such instances, the grantee will be provided written notice of the recommendation to terminate funding at least 45 calendar days prior to the proposed termination. That notice shall state the reasons for the termination of funding, the proposed date of termination, and the procedure for requesting reconsideration.
6. The grantee shall have the opportunity to request reconsideration of the proposed termination—by filing a written request for reconsideration with the Executive Director not later than 10 workdays after receiving notice of the proposed termination.
7. If circumstances warrant, grant funding may be terminated by the Executive Committee or Council for cause without notice of suspension when delayed action does not protect the interests of the Council. In such instances, TCDD staff shall provide written notification of the termination which shall include the reason(s) for such action and instructions for termination or closeout of the grant.
8. Grant funding may also be terminated may by mutual agreement or by the grantee when the grantee's authorizing official gives written notification to the Executive Director. TCDD staff shall provide written notification of termination by joint agreement, or written acknowledgement of the termination notice if by the grantee. Such notice or acknowledgement shall include written instructions for termination or closeout of the grant.
9. The TCDD Executive Director may approve TCDD assuming the federal share of any obligations that cannot be cancelled.
10. A grant, or portion thereof, may also be terminated at the grantee's request by approval of the TCDD Executive Director.
11. Between the time of the proposed termination and the final decision of the Executive Committee, TCDD may withhold further funding. In the event the Executive Committee's decision is favorable to the grantee, the funds shall be promptly distributed to the grantee.

M. Financial Monitoring and Independent Audits

1. Independent audits of grantees are required for each year of funding in accordance with the requirements of OMB Circulars and Texas Uniform Grant Management Standards.
2. Project specific independent audits, annual independent review by a qualified CPA, agreed upon procedures of engagement for review by a qualified CPA, and/or other monitoring strategies shall be required of grantees not subject to annual independent audit requirements by OMB or UGMS. Appropriate monitoring strategies shall be based on an assessment of risk of each grantee and procedures approved by the Audit Committee.
3. The Council shall reimburse the grantee for the reasonable cost of the required audit or other required monitoring activity. TCDD staff shall determine the need for independent audits of grantees receiving less than \$100,000 annually of DD funds based on an assessment of risk of each grantee.
4. Staff shall provide to the Audit Committee a summary of the findings of each independent audit or required monitoring activity and the status of corrective actions required.

N. Funding Restrictions

Grantees will be subject to the following funding restrictions, unless statute or Council rules require otherwise:

1. TCDD shall provide not more than 75% of the total project costs from federal DD funds except for activities in designated poverty areas in which case federal funds provided by the Council shall be not more than 90% of total costs.
2. The Executive Director may reduce or waive the matching requirement of individual grant projects when deemed appropriate and shall report any such waiver to the Executive Committee.
3. Grantees are responsible to provide funds for the additional costs of project activities from non-federal sources.
4. DD funds are allowed for indirect administrative costs up to 10% of total project expenses. Any portion of indirect costs above 10% may be allowed as part of the required non-federal participant share.
5. Donated time and services may be included as a match contribution unless otherwise restricted by a specific request for proposals.
6. Council staff shall provide information about allowable non-federal sources of funds upon request.
7. No organization shall receive more than three (3) grants from the Council at any time.
8. Unallowable costs.

Information is available from Council staff concerning unallowable costs. Such costs will include but are not limited to the following:

- a. bad debts;
 - b. entertainment;
 - c. legislative expenses;
 - d. expenses required to be reported as lobbying by state statute; and
 - e. merit salary increases that total more than 5% of an individual's salary during a 12 month period.
9. Any revenues received from projects funded by the Council must be reported quarterly on forms provided by the Council. Council staff must approve use of such funds.

O. TCDD Grants Policies and Procedures

1. All grantees shall receive a TCDD Grants Manual that contains all requirements, procedures, and reporting forms for grantees.
2. The Executive Director will approve all revisions to a project work-plan, including performance measures, staffing pattern, or budget, providing the changes are within the total budget and general scope of work approved by the Council.
3. A grantee seeking to increase the authorized funding amount, length of project, or scope of work shall file a request with the Council. The request shall be submitted to the Executive Director with a justification for the change. The Executive Director shall review the request and make a recommendation to the Council. The Council's decision to approve or deny the request is final.