

HURRICANE HARVEY
GUIDANCE AND FAQ:
IMPACT ON FEDERAL GRANT FUNDS

*APPLICABLE ONLY TO LEAS IMPACTED BY HURRICANE HARVEY
(LEAS LOCATED IN COUNTIES IDENTIFIED IN THE GOVERNOR'S DISASTER
DECLARATION OR LEAS RECEIVING EVACUEE STUDENTS)*

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Background

Local educational agencies (LEAs) receive a variety of federal education funds based on statutory formulas. These funds have a period of availability of 27 months.

- 2015–2016 carryover funds into 2016-2017 are only available for obligation through September 30, 2017.
- 2016–2017 federal funds are available for obligation through September 30, 2018.
- 2017–2018 federal funds are available for obligation through September 30, 2019.

Funds must be expended for allowable activities to serve the program’s intended beneficiaries. It is anticipated that LEAs will expend more federal funds in the 2017-2018 school year to serve the intended beneficiaries of the program areas with allowable uses of funds, in both affected LEAs and in LEAs that enroll evacuee students displaced by [Hurricane Harvey](#) due to needing to meet needs of students.

There is more potential flexibility with federal formula funds than with any discretionary funds the LEA received either from TEA or directly from USDE. Some flexibility may be available through the Education Department General Administrative Regulations ([EDGAR](#)) rules that apply to all federal education grants. Other flexibility may be available under the state’s Ed-Flex waiver authority (most ESSA formula programs and Perkins CTE programs).

Additional Information

For additional information related to flexibility available, or with questions on this document please contact the Department of Grants Compliance and Oversight at grants@tea.texas.gov or (512) 463-8992.

Frequently Asked Questions (FAQ)

1. Procurement

1.1 What are the procurement methods that LEAs may use with federal grant funds during the emergency?

Response: EDGAR prescribes grant recipients who use federal grant funds to procure property and services must follow general procurement standards ([2 CFR 200.318](#)). Federal grant recipients must select a procurement method that is most appropriate according to the circumstances involved. The procurement methods available to the federal grant recipient are:

1. Micro-purchase
2. Small purchase
3. Sealed bids
4. Competitive proposals
5. Noncompetitive proposals (also commonly thought of as “sole source”)

1.2 Can an LEA affected by Hurricane Harvey use the noncompetitive procurement method allowed by EDGAR to obtain goods and services quickly?

Response: Yes, as long as the LEA does not intend to submit the same expenditures to FEMA for reimbursement. If the expenditure is intended to be submitted to FEMA at a later date, then the LEA must follow the FEMA procurement rules.

One allowable use of a noncompetitive procurement is a public exigency or emergency that will not allow for a delay in services, caused by the competitive solicitation process. In the event of an emergency, such as Hurricane Harvey, a grant recipient may choose to solicit a noncompetitive proposal from only one source to avoid delay in procuring items or services ([2 CFR 200.320\(f\)\(2\)](#)).

LEAs in Texas affected by the devastation caused by Hurricane Harvey may need to use the noncompetitive proposal method of procurement to quickly purchase needed items or services. When using the noncompetitive procurement method, all costs must still be allowable under the specific program.

For example, an LEA that received damage from Hurricane Harvey may need to quickly replace or acquire materials or services that were damaged, destroyed, or lost in the storms. Also, an LEA receiving evacuated students may need to choose the noncompetitive procurement option to more quickly procure needed items or services to be able to serve the unexpected growth in enrollment numbers.

1.3 What if an LEA uses federal grant funds to pay for services or activities that are later determined to be eligible for reimbursement from the Federal Emergency Management Agency (FEMA)?

Response: The LEA should not be using federal grant funds with an intention of requesting FEMA reimbursement later (which is an issue of double charging to federal assistance, and the issue that has caused audit problems in the past). Any FEMA reimbursements/grant charges must be net “any amounts received from the Federal government to finance activities or service operations of the non-federal entity” under 2 CFR 200.406(b).

If an LEA is later reimbursed by FEMA for expenses that were charged to a federal grant, the LEA must ensure that the charges are treated as applicable credits as specified in EDGAR. To the extent that such credits received by the LEA relate to allowable costs, they must be credited to the federal grant either as a cost reduction or cash refund, as appropriate ([2 CFR 200.406](#)).

1.4 What documentation is required for using the noncompetitive procurement?

Response: LEAs that determine a need for noncompetitive procurement are not required to obtain prior approval from TEA. Documentation on how the determination was made would be kept locally. However, if the LEA prefers to obtain prior approval from TEA as their documentation for auditors, appropriate forms will be available on the TEA website.

Follow the instructions on the [Request for Prior Approval Forms](#) webpage for completing and submitting the appropriate form and reference need created by Hurricane Harvey:

- For LEAs located in counties identified in the governor's disaster declaration that received damages in the storms, an automatically approved form will be available for downloading. Submission to TEA is not required.
- For LEAs outside the counties identified in the governor's disaster declaration that enrolled evacuated students from Hurricane Harvey, a prior approval request may be submitted to the Associate Commissioner for Grants Compliance and Oversight. Approvals will be processed within three business days.

2. Deadlines and Due Dates

2.1 What if an LEA affected by Hurricane Harvey cannot meet the deadline for filing a final expenditure report or revised final expenditure report for a grant?

Response: LEAs in counties included in the Governor's disaster declaration are automatically approved for extensions to deadlines for final expenditure reports (FERs). For most grants, the revised FER deadline is 30 days after the FER deadline and these LEAs can submit the FER by that second deadline.

However, if an LEA affected by Hurricane Harvey requires more time beyond the revised FER deadline, it should contact TEA's Department of Grants Compliance and Oversight to request additional time. TEA can extend the liquidation period longer (the period after the close of the grant for the grantee to receive goods and services, pay for them, and close their books) than the 60 days, but it requires a waiver to the state from USDE. TEA is in the process of requesting this waiver.

2.2 Carryover funds from federal grants awarded in school year 2015–2016 must be spent by no later than September 30, 2017. What if an LEA affected by Hurricane Harvey cannot spend or obligate all 2015–2016 carryover funds by that date?

Response: If an LEA has not obligated the carryover amount, the amount could lapse if the LEA is unable to obligate the funds for allowable expenditures by September 30, 2017. If the LEA needs to extend the period of availability of the 2015-2016 grant funds, you should contact TEA's Department of Grants Compliance and Oversight to request the waiver. TEA can extend the period of availability of the funds longer, but it requires a waiver to the state from USDE. TEA is in the process of requesting this waiver.

2.3 LEAs affected by Hurricane Harvey may not be able to expend all the carryover funds from their 2016–2017 federal grants. For Title I, Part A, affected LEAs may exceed the 15% limitation to carryover due to delays in implementing program activities. Is there a way to waive the 15% limitation to carryover?

Response: LEAs have until September 30, 2018, to spend carryover funds from their 2016–2017 federal grants. If the LEA in the future needs to request a waiver of period of availability and has already implemented the statutory waiver, TEA will request a state waiver from the US Secretary of Education on behalf of the LEAs to give them more time to expend these funds.

2.4 To be in compliance with equitable private nonprofit school (PNP) services requirements under ESSA, an LEA must submit the Affirmation of Consultation

with PNP School Officials form by September 11. Will TEA extend the deadline for submission of this form for LEAs affected by Hurricane Harvey?

Response: Yes, LEAs will now have until October 11, 2017, to submit the Affirmation of Consultation with PNP School Officials form. If the LEA needs additional time to submit or more information, contact LaNetra Guess, Private School Services State Coordinator, at PNPombudsman@tea.texas.gov.

3. Audit/Monitoring

3.1 What if an LEA affected by Hurricane Harvey has lost audit documentation or is unable to have an audit conducted due to damage sustained by the hurricane?

Response: While USDE has no authority to waive the federal audit requirements, TEA can provide some flexibility in this area for those LEAs that experienced damage to facilities or records due to the hurricane.

TEA can remove or modify risk indicators used for annual risk assessment by TEA for affected LEAs. If an impacted LEA receives more findings due to independent auditors not understanding the available flexibility, TEA can implement cooperative audit resolution processes to resolve the audit findings, and will consider flexibility in TEA's review of findings, corrective actions, and questioned costs when reviewing the LEA's independent audit and issuing federal funds management decisions.

3.2 What if affected LEAs are not able to respond in a timely manner to monitoring reviews conducted by TEA's Federal Fiscal Monitoring Division??

Response: TEA's Federal Fiscal Monitoring Division will provide additional time for LEA responses and offer assistance to affected LEAs to complete their reviews. An LEA needing additional time should contact the Federal Fiscal Monitoring Division at (512) 463-9918.

4. Allowable Use of Funds

4.1 Can an LEA affected by Hurricane Harvey use federal grant funds for areas of need that were not anticipated prior to the hurricane and that may not be consistent with initial LEA plans and Title I schoolwide program plans?

Response: Yes, TEA can approve any grant application amendment or new plan needed for impacted LEAs for allowable uses under ESSA, IDEA, and other federal programs. Impacted LEAs may request retroactive amendments for changes needed to grant applications. Mitigating the emergency and student safety should be the LEA's priority; grant applications can be amended retroactively after higher priority issues are addressed.

4.2 Can federal grant funds be used for clean-up and construction after the hurricane?

Response: No. The LEA should focus the federal grant funds on the educational needs of the students and teachers. All uses of the federal funds must meet the intent and purpose of the program statute and be allowable uses of the specific fund source.

5. Maintenance of Effort (MOE)

5.1 What will happen if an LEA affected by Hurricane Harvey experiences changes in future MOE determinations due to unusual payments made with FSP or by fluctuations in enrollment? For example, MOE for ESSA or IDEA-B may be impacted if the LEA expends additional funds to provide education to evacuee students who may return to their home LEA and the receiving LEA does not maintain the level of expenditure in the following year.

Response: TEA's Federal Fiscal Compliance and Reporting Division will analyze any potential impact to future MOE determinations. Any impact to MOE is not expected until one to two years in the future. TEA could potentially request a waiver from the US Secretary of Education for impacted LEAs.

6. Additional Funding or Flexibility

6.1 Will there be an additional funds available for affected LEAs to meet identified needs of students remaining in their LEAs or evacuee students who enroll?

Response: TEA plans to change the reallocate criteria for ESSA formula grant funds for the current year to reallocate those funds to LEAs impacted by the hurricane. This will provide additional federal funding to impacted LEAs by November 2017.

6.2 Where is the most flexibility in the use of federal grant funds to assist LEAs impacted by the hurricane?

Response: The use of full consolidation of federal, state, and local funds on Title I, Part A Schoolwide campuses provides the most flexibility to all LEA. For more information on full consolidation, email the Title I, Part A staff at ESSAsupport@tea.texas.gov.

6.3 Does the new Title I, Part A supplement, not supplant provision provide additional flexibility?

Response: Yes. The Title I, Part A supplement, not supplant methodology under ESSA provides additional flexibility if currently implemented by the LEA. The methodology is required to be implemented by all LEAs receiving Title I, Part A funds by December 2017. For more information on the new methodology, email the Title I, Part A staff at ESSAsupport@tea.texas.gov or call the Grants Administration Division at (512) 463-8525.

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