

S U S A N

C O M B S

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

P.O. Box 13528 • AUSTIN, TX 78711-3528



Dear EECBG Sub-Recipient:

At this time you should have received or are about to receive your Energy Efficiency and Conservation Block Grant (EECBG) contract. Due to the nature of the American Recovery and Reinvestment Act (ARRA) and under the terms of the EECBG contract, both the state and federal agencies have an obligation to insure that the use of these funds comply with all the requirements in the contract. While all the terms of the contract are important, this letter **highlights unique requirements of ARRA funds**. Specific guidance on complying with the requirements is provided in greater detail at:

<http://www.seco.cpa.state.tx.us/arra/guidelines/index.php>.

Procurement

Federal regulations explicitly provide that state and local procurement requirements apply to these funds as long as they are consistent with federal requirements in Volume 10 Code of Federal Rules (CFR) Section 600.236. These requirements generally reflect the standard government procurement practices that are already in place under state law. The most significant aspect for you is that **you should have in place written procurement procedures** before you purchase goods or services and **you should fully document the steps you take in purchasing** the particular goods and services for this project. By complying with these two procurement fundamentals, your use of the funds should be able to withstand any scrutiny that may come from the federal and state agencies as well as the general public. More information on procurement procedures can be found at: http://www.seco.cpa.state.tx.us/arra/docs/ARRA_Provisions_02_16_10.pdf.

Buy American

Under ARRA, Congress has required all iron, steel, and manufactured goods purchased with stimulus funds that will be used for construction, maintenance or repair of a public building be produced in the United States. Exceptions are allowed, but all exceptions to this provision have to be approved by the U.S. Department of Energy (DOE). DOE has also provided waivers for some products; however, the key to compliance is documentation. **You should make sure that your suppliers and/or contractors investigate the sources of supplies for the project and provide certifications that they have complied with the Buy American provision**, either by purchasing American products or by getting an exemption from DOE. More information on the Buy American requirements and product waivers DOE has issued can be found at: http://www1.eere.energy.gov/recovery/buy_american_provision.html. Further, you can find a sample Buy American certification document which can be used by your entity to demonstrate compliance at http://www.seco.cpa.state.tx.us/arra/docs/Buy_American_Certification.pdf.

Davis-Bacon wage determinations

The wages paid to laborers and mechanics on the work site of a public works project must be prevailing wages as determined by the U.S. Department of Labor (DOL) which is easily found at: <http://www.dol.gov/whd/contracts/dbra.htm>. The DOL wage determinations must be included in construction contracts. The contractor **must** submit certified payrolls to you weekly and you **must** submit the original weekly certified payrolls to the SECO Stimulus Grants Coordinator. More information on Davis-Bacon can be found at http://www1.eere.energy.gov/wip/davis-bacon_act.html#eecbg.

National Environmental Policy Act

The U.S. Department of Energy (DOE) enforces these regulations to ensure that projects do not pose a negative impact on the environment, or create environmental conditions that would negatively impact the persons served by the project. Many projects have already been cleared by DOE, but if your project has **not** been “categorically excluded,” you **must** receive NEPA clearance from the SECO Stimulus staff or DOE staff before **any** work on the project may start. DOE will be responsible for completion of any environmental assessment or environmental impact statements that are required and you will be required to assist DOE by providing information for their projects, if necessary. More information can be found at http://www1.eere.energy.gov/wip/pdfs/nepa_program_guidance_notice_10-003.pdf.

National Historic Preservation Act

The National Historic Preservation Act (NHPA) imposes additional requirements for projects that may have a negative impact on any structure or building. This applies to any structure or building that is 1) forty-five (45) years of age or older; 2) listed in or eligible for listing in the National Register of Historic Places; or, 3) located in an eligible historic district or in a locally designated historic district. Similar to NEPA, many projects have already been cleared by the Texas State Historic Preservation Officer, but unless your project has been positively identified as not falling into the excluded categories, you must receive NHPA clearance from the Texas State Historic Preservation Officer before any work on the project may start. The Texas Historical Commission (THC) serves as the Texas State Historic Preservation Officer and THC will be responsible for completion of any historical assessments. You will be required to assist THC by providing information to them for your projects, if necessary. You may contact THC through the website: <http://www.thc.state.tx.us/crm/crmdefault.shtml> or by calling Linda Henderson, Historian, at linda.henderson@thc.state.tx.us, or Elizabeth Butman, State Coordinator for Project Review, at 512/463-6167 or elizabeth.butman@thc.state.tx.us. More information can also be found at <http://www.seco.cpa.state.tx.us/arra/guidelines/index.php>.

Waste Disposal

Almost every project is going to produce construction materials that have to be thrown away. Under the terms of the ARRA grant, you will have to be particularly aware of any sanitary or hazardous waste that may be generated in the course of your project. Sanitary or hazardous waste includes, but is not limited to, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, asbestos, etc. Specifically, you are required to have a written plan for disposal of any sanitary or hazardous waste that may be generated in the course of your project.

The Comptroller’s Office is always ready to assist you toward the successful completion of your project. As stated earlier, specific guidance on complying with these requirements is provided in greater detail at http://www.seco.cpa.state.tx.us/arra/docs/ARRA_Provisions_02_16_10.pdf. Additional resources are provided at the State Energy Conservation Office – Stimulus internet page: www.secostimulus.org under “Technical Guidelines.” We are also just a phone call away at (512) 463-7392.

Thank you for participating in this important program. We look forward to working with you!

Sincerely yours,

The SECO Stimulus Grants Team