

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

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To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers

From: Courtney Arbour, Director, Workforce Development Division

Subject: **Premises Costs for Use of Texas Workforce Commission Buildings**

PURPOSE:

The purpose of this WD Letter is to inform Local Workforce Development Boards (Boards) that occupy space in Texas Workforce Commission (TWC)–owned buildings that beginning October 1, 2018, the following will take effect:

- TWC will use a *depreciation* method instead of *use allowances* method (that is, building use fees) to compute invoice amounts for Board use of TWC buildings that occurs on or after October 1, 2018.
- TWC will invoice depreciation to a Board that occupies space in a TWC building, if the building has:
 - an acquisition cost that has not been fully depreciated by TWC; or
 - a capital building improvement* that materially increases the value of the building and the improvement has not been fully depreciated by TWC.
- Boards that occupy space in fully depreciated TWC buildings will pay no depreciation to TWC for the Board’s occupancy of that building, except when a capital building improvement* occurs that materially increases the value of the building and the improvement requires depreciation.
- All Boards that occupy a TWC building will continue to be responsible for facilities administration services, such as those covered by TWC Resource Administration Grants, operating grants, or other grant agreements.

* Building improvements are capital events (generally \$100,000 or more) that materially extend the useful life of a building or materially increase its value, or both. TWC will prepare a cost-benefit analysis before approving a capital improvement for a TWC building.

RESCISSION:

WD Letter 53-05

BACKGROUND:

Since October 1, 2005, Boards that occupy space in TWC buildings have paid TWC a building use fee equal to 2 percent of the capitalized cost of the portion of the building

that the Board occupies. Boards have also been responsible for paying allocable facilities administration costs.

Beginning October 1, 2018, TWC will replace building use fees with depreciation to align with current federal cost principles. When TWC implemented building use fees, cost principles in Office of Management and Budget (OMB) Circulars A-87 and A-122 specifically authorized the use allowance method (that is, building use fees) as an alternative to depreciation.

Since then, OMB replaced Circulars A-87, A-122, and several other OMB Circulars with “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance) (2 CFR Part 200). While the Uniform Guidance at 2 CFR Part 200 retained many of the cost principles that existed in OMB Circulars A-87 and A-122, it eliminated the use allowance method as an alternative to depreciation. As a result, building use fees are no longer an authorized method for recovering the cost of TWC-owned buildings.

Boards will continue to be responsible for contracted facilities administration services as identified in executed grant awards, including TWC Resource Administration Grants, operating grants, or other grant agreements.

TWC charges premises costs to Boards that occupy space in TWC buildings because TWC acquired the buildings with grant funds that were provided to states under the Wagner-Peyser Act, as amended, and Title III of the Social Security Act, for administering the Employment Service (ES) and Unemployment Insurance (UI) programs, respectively. In accordance with requirements that existed at the time, TWC used ES and UI funds to acquire the buildings for administration of the state’s unemployment compensation law and public employment offices, creating federal equity in the buildings.

On October 20, 2004, the US Department of Labor (DOL) Employment and Training Administration (ETA) issued Training and Employment Guidance Letter (TEGL) No. 7-04, entitled “Issues Related to Real Property Used for ETA Program Purposes.” The TEGL addresses the accounting and use of real property that was acquired in whole or part with federal grant funds. It also addresses premises costs associated with another entity’s occupancy of the property, including the authority then provided by §193(a) of the Workforce Investment Act (now §192 of the Workforce Innovation and Opportunity Act) to make the buildings available for use by the one-stop system.

With respect to the buildings’ use by the one-stop system, TEGL No. 7-04 noted that a 2001 review by the DOL Office of Inspector General concluded that such authorization did not, however, authorize a state to charge ES or UI grant funds for premises costs allocable to programs other than ES and UI. This created the need to charge Boards for building occupancy costs that benefit other programs.

On September 15, 2005, TWC issued WD Letter 53-05, entitled “Use Fees for Texas Workforce Commission Buildings,” establishing building use fees for the Boards’ occupancy of TWC buildings. This WD Letter rescinds and replaces WD Letter 53-05.

The Uniform Guidance took effect on December 26, 2014, and eliminated the building use allowance method. Where federal cost principles in OMB Circulars A-87 and A-122 state that “Compensation for the use of fixed assets on hand may be made through depreciation or use allowances,” the Uniform Guidance at 2 CFR §200.436 now states that “such compensation must be made by computing depreciation.” The OMB’s *Federal Register* Notice of Proposed Rulemaking for the Uniform Guidance, published on February 1, 2013, explains, “. . . all references to use allowances have been eliminated. Use allowance was an alternative accounting method which was necessary at the time of the last update to OMB circulars because not all entities were capable of using the depreciation method. Now, however, the depreciation method is widely if not universally used, and use allowance has become an obsolete reference.” (78 FR 7290)

Therefore, TWC will compute depreciation in accordance with the Uniform Guidance at 2 CFR §200.436, including subsection (d)(5) of that section, which contains conditions that apply when replacing the use allowance method with depreciation.

Additionally, TWC’s computation of depreciation of buildings and building improvements must comply with applicable state laws and requirements, including those in the State Property Accounting (SPA) Process User’s Guide published by the Texas Comptroller of Public Accounts (CPA). As noted earlier, TWC will prepare a cost-benefit analysis before approving a building improvement that is a capital expenditure.

The key state requirements that govern TWC’s computation of depreciation are listed below. The requirements are included to illustrate the differences between computation of building use fees previously used and the depreciation method. The information is current as of the issuance of this WD Letter, but it reflects state laws, policies, and provisions of the SPA Process User’s Guide, which are subject to change over time. Because the requirements are included in this WD Letter for illustration purposes only, TWC may choose not to update this WD Letter to reflect subsequent changes to that guide, if they occur. If changes are made that conflict with this WD Letter and the SPA Process User’s Guide or other CPA requirements, TWC will comply with the state requirement in effect at the time. The SPA Process User’s Guide is available on CPA’s website.

The key state requirements that govern TWC’s computation of depreciation are as follows:

- TWC must in some cases separately calculate depreciation of a building’s major structural components, subsystems, and equipment.
- Building improvements must be treated as “capital events that materially extend the useful life of a building or materially increase its value, or both” and “should be capitalized and recorded as an addition of value to the existing building, if the expenditure meets the capitalization threshold.”
- The state capitalization threshold for building improvements is \$100,000, as of the issuance of this WD Letter.

- TWC must report capitalized assets in its annual financial report. Capitalized assets are depreciated over their estimated useful lives, as defined by the SPA Process User’s Guide and any subsequent issuances.
- The SPA Process User’s Guide contains examples of expenditures that are subject to capitalization and depreciation, and expenditures that are not subject to capitalization and depreciation.
- TWC must capitalize or expense demolition costs, as required by the Governmental Accounting Standards Board and state policy.
- Depreciation must be computed using the straight-line depreciation method (the historical cost minus the residual value, divided by the useful life, as addressed in the SPA Process User’s Guide)—unless otherwise provided by Uniform Guidance and state policy.

Send questions about how TWC computes depreciation to fiscal.ta@twc.texas.gov, or to the contact information included with individual invoices.

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

NLF: Boards that occupy space in TWC buildings that are not fully depreciated must pay TWC depreciation charges that result from application of the depreciation method described in this WD Letter by the payment due date specified on the invoice.

NLF: Boards must be aware that the amounts and terms of payment will be specified in written contracts between TWC and Boards that occupy space in TWC-owned buildings.

NLF: Boards must allocate the billed depreciation costs to benefitting programs in accordance with applicable cost principles. The amounts are allowable costs of the Boards’ available program funds.

NLF: Boards must not use ES funds to pay the billed depreciation costs. Under the Texas Model, TWC accounts for ES costs in the TWC portion of the building cost.

NLF: Boards must continue to conform to the terms, conditions, and responsibilities in Resource Administration Grants, operating grants, and any other grant agreement for facilities where TWC employees are colocated with Board or service provider employees.

INQUIRIES:

Send inquiries regarding this WD Letter to fiscal.ta@twc.texas.gov.

REFERENCES:

- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Social Security Act, Title III
- Wagner-Peyser Act of 1933, as amended
- Office of Management and Budget Circular A-87, Attachment B, Item 11
- Office of Management and Budget Circular A-122, Attachment B, Item 11
- Office of Management and Budget Rule, “Reform of Federal Policies Relating to Grants and Cooperative Agreements; Cost Principles and Administrative Requirements (Including Single Audit Act),” *Federal Register*, Volume 78, No. 22, February 1, 2013
- Training and Employment Guidance Letter No. 7-04, issued October 20, 2004, and entitled “Issues Related to Real Property Used for ETA Program Purposes”
- Workforce Innovation and Opportunity Act, §192
- Workforce Investment Act, §193(a)
- Texas Comptroller of Public Accounts State Property Accounting Process User’s Guide