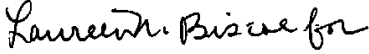


TEXAS WORKFORCE COMMISSION LETTER

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| ID/No: | WD 40-09, Change 1 |
| Date: | September 23, 2010 |
| Keyword: | Child Care |
| Effective: | Immediately |

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


From: Laurence M. Jones, Director, Workforce Development Division

Subject: **Child Care Local Match Process—*Update***

PURPOSE:

To provide Local Workforce Development Boards (Boards) with the child care local match process for Fiscal Year (FY) 2010 and subsequent years, which includes:

- procedures that apply when two or more Boards agree to share match or “excess match” received from a common local match contribution agreement (local match agreement);
- procedures for submitting draft child care local match agreements for review prior to submitting the agreements for approval by the Texas Workforce Commission (Commission); and
- contact information for submitting child care local match agreements to the Commission.

This WD Letter provides updated information for FY 2011 pledge remittances and certifications, and replaces Attachment 3, the Texas Workforce Commission Local Match Pledge Payment Coupon and Certification of Expenditures Form.

Attachments 1 and 2 remain unchanged.

CHANGES TO WD LETTER 40-09:

New information in this WD Letter is indicated by:

- A strikethrough of the original language, which indicates that language has been deleted; and
- **Bold** typeface, which indicates new or clarifying language.

BACKGROUND:

The Commission allocates federal funding for child care services from the U.S. Department of Health and Human Services Child Care and Development Fund

(CCDF) to local workforce development areas (workforce areas). A portion of the CCDF funding requires Boards to secure and submit local matching funds to the Commission in accordance with federal regulations and Commission rule.

PROCEDURES:

Boards must secure local match within the time frames set forth in Commission rule §800.73:

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By the end of the fourth month following the beginning of the program year, Boards shall secure donations, transfers, and certifications totaling at least 100% of the amount a Board needs to secure in order to access the unmatched federal Child Care funds available to the workforce area at the beginning of the program year.

Boards must ensure that secured donations, transfers, and certifications meet Commission rule §809.17(b) conditions for contributions that the Commission will accept as child care local match:

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- (1) Funds from a private entity that:
 - (A) are donated without restrictions that require their use for:
 - (i) a specific individual, organization, facility, or institution; or
 - (ii) an activity not included in the CCDF State Plan or allowed under this chapter;
 - (B) do not revert back to the donor's facility or use;
 - (C) are not used to match other federal funds; and
 - (D) are certified by both the donor and the Commission as meeting the requirements of subparagraphs (A)–(C) of this paragraph.
- (2) Funds from a public entity that:
 - (A) are transferred without restrictions that would require their use for an activity not included in the CCDF State Plan or allowed under this chapter;
 - (B) are not used to match other federal funds; and
 - (C) are not federal funds, unless authorized by federal law to be used to match other federal funds.
- (3) Expenditures by a public entity certifying that the expenditures:
 - (A) are for an activity included in the CCDF State Plan or allowed under this chapter;
 - (B) are not used to match other federal funds; and
 - (C) are not federal funds, unless authorized by federal law to be used to match other federal funds.

Boards must be aware that CCDF federal matching funds that are not secured with eligible child care local matching funds by the end of the fourth program month may be subject to deobligation.

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Boards may establish a local match agreement with a start date beginning after or ending before the effective period in which the funds are contracted (i.e., October 1, 2009, through December 31, 2010, or similar time frames for future fiscal years).

Boards must complete donations, transfers, and certifications as required by Commission rules §§800.73(a)(2), 809.17(d)(2), and 809.17(d)(3).

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Commission rule §800.73(a)(2) states, “Throughout the program year and by the end of the twelfth month, a Board shall ensure completion of all donations, transfers, and certifications consistent with the contribution schedules and payment plans specified in the local agreements.”

Commission rule §809.17(d)(2) states, “Private donations and public transfers are considered complete when the funds have been received by the Commission.” Commission rule §809.17(d)(3) states, “Public certifications are considered complete to the extent that a signed written instrument is delivered to the Commission that reflects that the public entity has expended a specific amount of funds on eligible activities described in subsection (b)(3) of this section.”

Boards must be aware that the Commission cannot accept local expenditure certifications from independent school districts for prekindergarten costs because the state is already maximizing prekindergarten expenditures as match to its fullest extent, and federal regulations prohibit counting the same contribution more than once.

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Child Care Local Match Agreements

When securing pledges of child care local match, Boards must use the “Child Care Local Match Contribution Agreement” provided in Attachment 1 to this WD Letter to enter into signed written agreements with contributors that:

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- document the contributor’s pledge and remittance schedule to provide allowable matching funds for child care services; and
- contain sufficient information to ensure that the local funds pledged meet federal and state requirements.

Boards must be aware that any addenda or additional requirements to the “Child Care Local Match Contribution Agreement,” as requested by the contributor, must be reviewed and approved by the Office of the General Counsel prior to the Board’s submission of the complete, signed local match agreement.

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Multiparty Child Care Local Match Agreements

Boards must be aware that for purposes of this WD Letter, multiparty local match agreements exist when two or more Boards agree to share match or “excess match” received for a common local match agreement. Local match agreements arising when multiple Boards independently enter into separate agreements with

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the same contributor do not constitute multiparty local match agreements for purposes of this WD Letter.

All Boards benefitting from a multiparty local match agreement must be party to the local match agreement by either:

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- signing the local match agreement (attach additional signature pages, as necessary); or
- signing a separate agreement among benefitting Boards that is incorporated into the local match agreement.

Boards must be aware that all multiparty local match agreements are subject to review and approval. This includes multiparty local match agreements in which benefitting Boards enter a separate written agreement that is incorporated into the local match agreement.

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Boards participating in a multiparty local match agreement through a separate agreement among benefitting Boards are encouraged to address the following in the separate Board agreement:

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- Responsibilities of each Board
- Designation of a lead Board for communications with the contributor
- Program numbers for each Board
- Priority or order in which federal matching funds are distributed upon certification of local matching expenses by the contributor
- Priority or order in which federal matching funds are reduced when there is a reduction in the amount of local matching funds certified by the contributor

New Presubmission Reviews

Boards entering into multiparty local match agreements must submit the draft agreements, including any draft addenda, to Board Contract Management to coordinate a review with the Office of the General Counsel, prior to submitting the agreements for Commission approval.

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Boards entering into local match agreements, other than multiparty local match agreements, may e-mail the draft agreements to childcare.programassistance@twc.state.tx.us for presubmission review by Program Assistance.

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Boards must be aware that the presubmission review by Program Assistance does not constitute, or substitute for submission to, review and acceptance by the Commission. Boards that obtain a presubmission review from Program Assistance must still submit the agreements for Commission review and approval as described below after completion of the presubmission review.

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Submission Procedures

Boards must submit local match agreements to the Commission for review and acceptance in accordance with federal and state regulations.

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Boards must ensure that:

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- the local match agreement start date, end date, and program year are within the effective period in which the funds are contracted;
- Section E: Donation/Transfer Payment(s) and Certification of Expenditures Schedule activities are completed by the end of the twelfth month of the program year in which the funds are allocated, in accordance with Commission rule §800.73(a)(2);
- expenditures are reported no later than 60 days after the end date of the local match agreement; and
- the local match agreement is properly signed and executed by the Board(s) and contributor (signature requirements for multiparty local match agreements are covered on page 3 of this WD Letter).

Additionally, Boards submitting multiparty local match agreements must ensure:

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- Section C: Originating Agreement Information contains the program number for each benefitting Board, or that the program numbers for each benefitting Board are incorporated into any referenced and attached agreement; and
- Section D: Utilization of Funds Description is created for each Board as part of the agreement with the contributor.

For donations pledged by private parties, Boards must mail three original, signed agreements to the Commission when submitting local match agreements (including multiparty local match agreements), as described below. Following Commission acceptance, two original, signed copies will be returned to the Board, along with an amendment to the Child Care Local Match contract.

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For transfers and certifications, Boards must submit either an original or a copy of a signed local match agreement (or multiparty local match agreement) to the Commission for:

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- the transfer of funds by a public entity; or
- the certification of local expenditures by a public entity.

Consistent with Commission rule §800.73, Boards must submit local match agreements to the Commission by sending complete, signed agreements to the Board's assigned contract manager by the end of the fourth month following the beginning of the program year via e-mail, U.S. mail, or fax. Board Contract Management's contact information follows:

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Texas Workforce Commission
c/o (Assigned Contract Manager)
101 East 15th Street, Room 506-T
Austin, Texas 78778-0001
Fax: (512) 936-3223
E-mail: ccm.agreements@twc.state.tx.us

Child Care Match Amendments

Boards must also submit the “Child Care Local Match Agreement Amendment” provided in Attachment 2 to this WD Letter—and an updated payment schedule if necessary—to Board Contract Management (using the above e-mail or physical address) if there is:

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- an increase or decrease in the pledge amount; or
- a change of certification date.

Boards must be aware that Commission acceptance is required for local pledge increases.

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Notification of Commission Acceptance

Boards must be aware that if the pledge information provided in the local match agreement or amendment (to increase a local pledge amount) meets all federal and state requirements, Board Contract Management will notify the Board of the Commission meeting date on which the item is placed on agenda for acceptance. Board Contract Management will provide notification of the status of the agreement or amendment following the scheduled meeting date. Board Contract Management provides written notification when the Commission approves a local match agreement or amendment.

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Child Care Local Matching Funds Encumbrance and Budget Setup

Boards must be aware of the following with regard to the encumbrance of federal matching funds:

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- For individual certified pledge agreements, the Payables Unit encumbers and Boards can draw the federal match for the individual certified pledge agreement once the Commission has accepted the pledge, and the Commission and Board contract or amendment is fully executed.
- For individual donated and transferred pledge agreements, the Payables Unit encumbers and Boards can draw the federal and local match for the individual donated and transferred pledge agreements once:
 - the Commission has accepted the pledges;
 - the Commission and Board contract or amendment is fully executed; and
 - the Commission receives the actual cash remittances as described in this WD Letter.

For example, if a Board has a \$50,000 donation/transfer agreement—with remittance dates of January 2, 2010, for \$20,000 and June 2, 2010, for the remaining \$30,000—the Board will have access to draw the federal and local funds for the \$20,000 once the \$20,000 is received by the Payables Unit, and the contract or amendment is fully executed. The Board will then have access to the \$30,000 in local funds and its respective federal share once the Payables Unit receives the \$30,000 remittance, and the contract or amendment is fully executed.

Boards must:

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- Create budgets in the Budget and Payment Application (BAPA):
 - For donation and transfer budgets, Boards receive the total federal and local amounts because “cash” is remitted to the Commission. NOTE: As mentioned above, the Boards will not be able to draw cash for donations and transfers until the Commission is in receipt of the local share of the donation or transfer of funds.
 - For certification budgets, Boards are reimbursed only the federal share.
- Ensure that the expenditure of local and matched federal funds follows Commission policies for the allocated CCDF funding by submitting local contributor amendments as needed.
- Ensure BAPA budgets do not exceed the workforce area’s allocated amount.

Boards must not create budgets in BAPA until after the Commission has approved the pledge agreement.

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Boards may contact childcare.applicationassistance@twc.state.tx.us for further assistance with technical issues in setting up budgets in BAPA.

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Process for Pledge Remittances and Certification of Expenditures

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Boards must use the **appropriate** “Texas Workforce Commission Local Match Pledge Payment Coupon and Certification of Expenditures Form” (payment and certification form) provided in Attachment 3 to:

- remit fund transfers from public entities and donations from private entities; and
- submit certifications of expenditures by public entities.

Transfers and Donations

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Boards must submit remittances for fund transfers from public entities and donations from private entities, along with the payment and certification form to:

Texas Workforce Commission
Attn: Revenue Trust Management, Depository Section
P.O. Box 322
Austin, Texas 78767-0322

To ensure accountability of pledged funds and certification of expense reports, the Commission will not accept contribution remittances without a payment and certification form. Boards must ensure that the payment and certification form is complete and that it lists the specific contributor information in the contributor agreement.

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Boards must ensure that remittances are issued to the Commission by either the Board or an individual contributor.

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Boards may consolidate several contributor remittances by requesting that contributors make their checks for transfers or donations payable to the Board.

When a contributor's check is made payable to the Commission, Boards must remit the check, with the payment and certification form, detailing specific contributor information. The Commission will return to the Boards any overpayments of funds.

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Certifications

Beginning with FY 2011 contracts, Boards must use the FY 2011 version of the Texas Workforce Commission Local Match Pledge Payment Coupon and Certification of Expenditures Form provided in Attachment 3, which details the *Quality Improvement* and *Direct Care Services* portions of certified child care expenditures.

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Boards must continue using the FY 2010 version of the Texas Workforce Commission Local Match Pledge Payment Coupon and Certification of Expenditures Form, also provided in Attachment 3, with FY 2010 child care contracts.

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When submitting certifications of expenditures, Boards must ensure that the public entity certifying child care expenditures signs the payment and certification form.

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If the payment and expenditure form only includes a certification of expenditures, and does not list any donations or transfers, Boards must ensure that the payment and expenditure form is submitted to:

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Texas Workforce Commission
Attn: Payables Unit
101 E. 15th Street, Room 446
Austin, Texas 78778-0001

If a payment and expenditure form that lists donations and/or transfers also includes a certification, Boards must ensure that the payment and expenditure form is submitted to the Revenue and Trust Management address above, along with the transferred or donated funds.

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Monitoring

Boards must be aware that Board Contract Management reviews receipts of pledge remittances and certifications of expenditures throughout the fiscal year. Appropriate follow-up will be conducted when pledges are 30 days past due.

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Documentation

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Boards must provide documentation to Board Contract Management for individual agreement actions including cancellations, increases, decreases, delinquencies, or lapses in pledge remittances.

INQUIRIES:

- Direct cash draw inquiries to Thomas Manning, Payables Manager, at (512) 463-1671 or thomas.manning@twc.state.tx.us.
- Direct technical BAPA inquiries to childcare.applicationassistance@twc.state.tx.us.
- Direct all other inquiries to the assigned contract manager for your workforce area.

ATTACHMENTS:

- Attachment 1: Child Care Local Match Contribution Agreement
- Attachment 2: Child Care Local Match Agreement Amendment
- Attachment 3: Texas Workforce Commission Local Match Pledge Payment Coupon and Certification of Expenditures Form

RESCISSIONS:

WD Letter 40-09

REFERENCE:

United States Department of Health and Human Services, Child Care and Development Fund, 45 C.F.R., Parts 98 and 99
Texas Workforce Commission Child Care and Development Rules: 40 TAC Chapter 809
Texas Workforce Commission General Administration Rules: 40 TAC Chapter 800

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and statlaws, 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.”