

CHAPTER 55. HEALTH CARE WORKFORCE DEVELOPMENT GRANT PROGRAM
SUBCHAPTER 1. GENERAL PROVISIONS

540:55-1-1. Purpose

The purpose of the Health Care Workforce Development Grant program is to use federal funds distributed to the State of Oklahoma pursuant to the American Rescue Plan Act, Pub. L. No. 117-2 (Mar. 11, 2021) (“ARPA”), to help recruit, educate, and stabilize Oklahoma’s health care workforce. The Oklahoma Legislature designated the Health Care Workforce Training Commission (“HWTC”) as a pass-through entity through which federal ARPA funding will be further distributed to grantees for specific health care workforce projects, including, but not limited to, capital improvements to nursing schools. See S.B. 1458, 58th Leg., 2d Reg. Sess. (Okla. 2022) (enacted); S.B. 8xx, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted); S.B. 9xx, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted); S.B. 10xx, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted); S.B. 17xx, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted); and H.B. 1025, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted).

540:55-1-2. Definitions

When used in this chapter, the following words or terms shall have the following meaning, unless the context clearly indicates otherwise:

“ARPA” means the American Rescue Plan Act, Pub. L. No. 117-2 (Mar. 11, 2021), as amended.

“C.F.R.” means Code of Federal Regulations, available at <https://www.ecfr.gov>.

“Grantee” means a recipient of ARPA funds awarded through the Health Care Workforce Development Grant program, regardless of whether the recipient is a “pass-through entity” or “subrecipient.”

“HWTC” or “the Commission” means Health Care Workforce Training Commission.

“OMES” means Office of Management and Enterprise Services.

“Pass-through entity” or “PTE” means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program, consistent with the definition at 2 C.F.R., § 200.1.

“SAM” means System for Award Management.

“Subrecipient” means an entity that receives a subaward from a pass-through entity to carry out part of a federal award, but does not include an individual that is a beneficiary of such award, consistent with the definition at 2 C.F.R., § 200.1.

“U.S. Treasury” means United States Department of the Treasury.

SUBCHAPTER 3. PROGRAM ADMINISTRATION

540:55-3-1. System for Award Management (“SAM”)

All eligible grantees must have an active registration with SAM.gov pursuant to Part 25 of Title 2 of the C.F.R. This registration must be active prior to the submission of mandatory reporting.

540:55-3-2. Capital expenditures

1. In accordance with Section 35.6(b)(4) of the Treasury Final Rule, grantees expending \$1,000,000 or more for capital expenditures related to the response to the COVID-19 public health emergency or its negative economic impacts, must provide the following written justification:
 - a. A description of the specific harm or need to be addressed, and why the harm was exacerbated or caused by the public health emergency. The grantee may provide quantitative information on the extent and the type of harm, such as the number of individuals or entities affected.
 - b. An explanation of why a capital expenditure is appropriate. For example, a grantee should explain why existing equipment or facilities, or policy changes or additional funding to pertinent programs or services, would be inadequate.
 - c. A comparison of the proposed capital project against at least two (2) alternative capital expenditures and a demonstration of why the proposed capital expenditure is superior. Grantees should consider the effectiveness of the capital expenditure in addressing the harm identified and the expected total cost (including pre-development costs) against at least two (2) alternative capital expenditures.
2. Funding for grantees expending \$1,000,000 or more of a Health Care Workforce Development Grant for capital expenditures will not be distributed until the complete written justification for capital expenditure as detailed above is received and approved by OMES.
3. If the capital expenditures amount to \$10,000,000 or more, the written justification will also have to be submitted as part of regular reporting.

540:55-3-3. Competitive bidding

1. All projects, programs, services, or activities sponsored in whole or in part with ARPA funds will be purchased in accordance with the State Purchasing Director's Guide to Competitive Purchasing with ARPA and GEER II Funds, available at https://oklahoma.gov/content/dam/ok/en/omes/documents/ARPA_Guide.pdf, and in accordance with applicable state and federal law, including but not limited to, 2 C.F.R., §§ 200.310 through .316 (property standards), and 2 C.F.R., §§ 200.317 through .327 (procurement standards).
2. All grantees that utilize competitive bidding procurement methods must provide HWTC with documentation of the process, including, but not limited to, copies of the bids received and justification of how a decision was reached to award a contract to a specific vendor.

540:55-3-4. Reporting

1. All grantees will appropriately maintain accounting records for compiling and reporting accurate, compliant financial data in accordance with generally accepted accounting standards and principles.

2. All grantees are required to submit Project and Expenditure Reports at the close of each month or quarter, in accordance with OMES' Subrecipient Monitoring Schedule. These reports must include, at a minimum, the status of the overall project, a listing of obligations and expenditures, any applicable program income, and a description of the project demographic distribution. A template for the reports will be sent to all grantees, and the complete report shall be submitted to HWTC within thirty (30) days of the end of the reporting period, or as otherwise directed by OMES. HWTC, in turn, will submit all requested monthly and quarterly data to OMES to report as needed to the U.S. Treasury.
3. Pursuant to the State and Local Fiscal Recovery Funds ("SLFRF") Compliance and Reporting Guide, some grantees with larger projects may be required to submit an annual Recovery Plan Performance Report ("Recovery Plan"). The Recovery Plan must detail how the grantee will ensure program outcomes are achieved in an effective, efficient, and equitable manner. The Recovery Plan, if required, must be submitted annually to HWTC and the U.S. Treasury; in addition, the Recovery Plan must be posted on the grantee's public-facing website.

540:55-3-5. Labor reporting for construction projects

1. For projects with over \$10,000,000 in capital expenditures (based on total expected cost), the grantee shall submit labor reporting requirements, including, but not limited to:
 - a. A Project Employment and Impact Report; and
 - b. A Project Workforce Continuity Plan.
 - c. These reports must be updated on a quarterly basis and submitted to HWTC within thirty (30) days of the end of the reporting period.
2. Projects funded entirely by ARPA dollars are not subject to the Davis-Bacon Act, Pub. L. No. 107-217 (Aug. 21, 2002), as amended; however, for projects that are funded in part by other federal dollars, grantees must determine whether their other funding source will require compliance with said act.
3. Pursuant to the U.S. Treasury's Final Rule, and regardless of the expected cost for construction projects, grantees are expected to use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.

540:55-3-6. Reimbursements

1. **Prior authorization.** Grantees must receive written prior authorization from HWTC before making purchases exceeding a prior authorization threshold amount. This amount will be based upon the grantee's risk assessment, as completed by a third-party consultant, as well as the overall scope of the proposed project. Grantees shall be informed in writing of the prior authorization threshold amount. A grantee shall upload the quote and a brief justification to the grant software designated by HWTC, for review and prior authorization by the HWTC Grants Manager. Any purchase over the threshold amount that has not been prior authorized by the Grants Manager may not be reimbursed by the Health Care Workforce Development Grant program.

2. **Invoices.** In order to obtain reimbursement, grantees shall electronically send monthly invoice packets to the HWTC Grants Manager. These packets must be received by the 5th day of each month.
 - a. Invoice packets must include the following:
 - i. Signed receipts/invoices for all purchases;
 - ii. A brief justification of all expenses (1-2 sentences explaining how the purchase benefits the project); and
 - iii. Bidding documentation with justification for why the vendor was chosen.
 - b. Invoices shall not be submitted to HWTC for reimbursement before performance is completed by the vendor and accepted by the grantee, including physical receipt of goods. A grantee must sign the invoice or receipt to verify that the item or service has been received.
3. **Approval by Commission or Executive Director.** After a purchase is prior authorized, if applicable, by the HWTC Grants Manager and made by the grantee, the grantee must still obtain approval before receiving reimbursement.
 - a. **Purchases less than \$50,000.** The Commission has delegated to HWTC's Executive Director the authority to approve reimbursement of purchases of goods and/or services that cost less than \$50,000. Requests for the Executive Director's approval shall be made electronically. A written copy of the Executive Director's approval or disapproval shall be electronically sent to a grantee within fifteen (15) business days of submission. A grantee may not request more than one (1) reimbursement approval from the Executive Director in any two-month (2-month) period.
 - b. **Purchases of \$50,000 or more.** The Commission may, through formal Commission action, increase the maximum dollar value of reimbursements the Executive Director is authorized to approve, as identified in OAC 540:55-3-6(3)(a), above; any decision to provide such increased authorization to the Executive Director will be within the Commission's sole and absolute discretion and subject to the Commission's directives. Absent any increased authorization, requests to approve reimbursements equal to or more than \$50,000 must be submitted to the Commission electronically, for approval or disapproval at a regularly- or specially-scheduled public meeting. Grantees that wish to be reimbursed following a particular Commission meeting must submit their invoice packets to the HWTC Grants Manager no less than two (2) weeks prior to the meeting. Grantees will be provided with a copy of the Commission meeting schedule, and may search for the Commission's meetings at <https://www.sos.ok.gov/meetings/legacy/default.aspx>. Grantees will be provided electronic correspondence reflecting the Commission's approval or disapproval within two (2) business days of the public meeting.
4. **One-time cash advance.** Grantees that do not have the operating capital to operate on a reimbursement basis, may request a one-time cash advance in accordance with OMES' Working Capital Policy.

540:55-3-7. Audit requirements

1. The Grantee shall complete the Subrecipient Annual Report annually within forty-five (45) days after its fiscal year end, informing the State of Oklahoma whether a Single Audit is required for the prior fiscal year. If a Single Audit is required, the grantee shall submit a copy of the audit report to the State of Oklahoma within nine (9) months. A Single Audit is required if the grantee expends \$750,000 or more in federal assistance during its fiscal year and must be conducted in accordance with Subpart F of Part 200 of Title 2 of the C.F.R.
 - a. HWTC will review the grantee’s audit and issue any management decisions thereon within six (6) months of acceptance of the audit report by the Federal Audit Clearinghouse. Prior to issuing the management decision, HWTC may request additional information or documentation from the grantee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs.
 - b. After review of the audit, if it is determined that funds are owed to the State of Oklahoma, HWTC may issue a management decision letter to the grantee. Pursuant to 2 C.F.R., § 200.521, the management decision will include:
 - i. A clear statement of whether or not the audit finding is sustained, the reasons for the decision, and the actions the grantee is expected to take (including, for example, repaying disallowed costs, making financial adjustments, or taking other actions);
 - ii. A description of the appeals process available to the grantee; and
 - iii. The reference numbers the auditor assigned to each audit finding.
 - c. A grantee aggrieved by an HWTC management decision may initiate an appeal of that decision. In order to initiate an appeal, the grantee must complete and submit the appropriate form provided by HWTC and made available on its website, within twenty (20) calendar days of the date of the management decision letter. If the form is not timely received, the Commission or the hearing officer designated by the Commission will issue a letter stating that the appeal will not be heard.
 - d. Appeals of management decisions shall be conducted in accordance with OAC 540:1-5-1.
2. Even if a grantee is exempt from federal audit requirements for a particular fiscal year, it shall still make its records available for review or audit by appropriate officials of the U.S. Treasury, OMES, HWTC, and Government Accountability Office, as requested. Moreover, all “government entities,” as such term is defined by law, shall comply with the applicable provisions of 74 O.S., § 212A relating to the Oklahoma State Auditor & Inspector’s Office.

540:55-3-8 Compliance with federal requirements

Grantees must establish and maintain effective internal controls over the federal award that provide reasonable assurance that they are managing the awards in compliance with federal statutes, regulations, and the terms and conditions of the award. Some of the applicable federal compliance, reporting, and contract requirements include:

1. American Rescue Plan Act, Pub. L. No. 117-2 (Mar. 11, 2021), as amended;

2. U.S. Treasury Final Rule, Coronavirus State and Local Fiscal Recovery Funds, 87 Fed. Reg. 4338 (Jan. 27, 2022), and all other applicable federal rules, policies, guidance, procedures, and directives including reporting and compliance guidance, as amended;
3. Uniform Guidance (Part 200 of Title 2 of the C.F.R.), including Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as amended; and
4. Single Audit Act Amendments of 1996, Pub. L. No. 104-156 (July 5, 1996), as amended.

540:55-3-9 Grantee assurances

Grantees must agree to certain state- and federally-required assurances, including, but not limited to, the following:

1. The grantee shall report on incurred expenses and/or losses, in a form and at a frequency prescribed by the State of Oklahoma and shall cooperate with the State of Oklahoma in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of ARPA.
2. Grantees shall timely complete Quarterly Performance Management Plans and submit them to HWTC. Quarterly Performance Management Plans must show measurable outcomes of the project. HWTC will submit the combined reports and results to the Commission on a quarterly basis.
3. In accordance with federal guidelines, grantees must keep accurate records of all inventory, including all equipment purchases over five thousand dollars (\$5,000). Annual inventory reconciliations must be performed by both an agent of the grantee and an agent of HWTC (can be simultaneous).
4. Grantees shall comply with all requests from the State of Oklahoma to schedule in-person site visits to observe and review progress of Capital (Real Property) building or renovation projects. Site visits will be scheduled at least once every three (3) months until completion of the project.
5. The grantee shall expend all funds by October 2, 2026. To the extent that actual expenditures or demonstrated need is less than the total award amount, the grantee will return the balance of unspent funds to the State of Oklahoma. If the U.S. Treasury recoups funds from the State of Oklahoma based on a determination that these award funds were used in a manner not in compliance with ARPA, the State of Oklahoma may recover funds from the grantee by reducing future funding in state budgets.
6. The grantee shall repay the award or portion of the award if: any funds received were issued in error; are based on incorrect representations; or any costs forming the basis of an award under this program have been or will be covered by other federal grants or awards or federally forgiven loans received by the grantee. The final determination of whether there has been a duplication of benefits and the amount to be repaid, if any, will be made by HWTC and/or OMES.
7. The grantee shall maintain and make available to the State of Oklahoma and/or U.S. Treasury, upon request, all documents and financial records sufficient to establish compliance with ARPA. Records and supporting documentation must be maintained for a period of seven (7) years after all funds have been expended or returned to U.S. Treasury, whichever is later. However, if any litigation, claim, or audit begins before the end of that seven-year period, all records must be retained until all litigation, claims, or audit findings involving the records have been resolved and the final action has been taken.

Moreover, all records relating to real property shall be retained until seven (7) years after final disposition of the property.

8. Records to support compliance with ARPA may include, but are not limited to, copies of the following:
 - a. General ledger and subsidiary ledgers used to account for:
 - i. The receipt of ARPA payments; and
 - ii. The disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
 - b. Budget records;
 - c. Payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
 - d. Receipts of purchases made related to addressing the public health emergency due to COVID-19;
 - e. Contracts and subcontracts entered into using ARPA payments and all documents related to such contracts;
 - f. Grant agreements and grant subaward agreements entered into using ARPA payments and all documents related to such awards;
 - g. All documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
 - h. All documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
 - i. All internal and external email/electronic communications related to use of ARPA payments; and
 - j. All investigative files and inquiry reports involving ARPA payments.

SUBCHAPTER 5: VIOLATIONS AND CORRECTIVE ACTIONS

540:55-5-1. Program violations

The State shall find that a violation of the Health Care Workforce Development Grant program policies and procedures occurred under certain circumstances, including, but not limited to, the following:

1. A grantee provided false or misleading information in proposed project applications and/or project reports;
2. The requirements of federal statute, federal regulations, Oklahoma statute, or rules of HWTC have not been met or have been violated;
3. There is a significant deviation from the grant agreement;
4. Significant corrective actions are necessary to protect the integrity of the project funds, and those corrective actions are not or cannot be put into effect, in the judgment of HWTC staff, within a reasonable timeframe; or
5. There has been a finding of fraud, waste, or mismanagement of any current or prior state- or federally-funded project.

540:55-5-2. Corrective and remedial actions

After having determined that a program violation has occurred, HWTC may take the following actions:

1. HWTC may adjust specific award conditions as needed, after providing notification consistent with the requirements in 2 C.F.R., § 200.208, including:
 - a. Requiring payments as reimbursements rather than advance payments;
 - b. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given performance period;
 - c. Requiring additional, more detailed financial reports;
 - d. Requiring additional project monitoring;
 - e. Requiring the grantee to obtain technical or management assistance; or
 - f. Establishing additional prior approvals; or
2. If, after determining that noncompliance cannot be remedied by imposing additional conditions, HWTC may, in accordance with 2 C.F.R., § 200.339:
 - a. Temporarily withhold cash payments pending correction of the deficiency by the grantee or more severe enforcement action by the U.S. Treasury or OMES;
 - b. Disallow all or part of the cost of the activity or action not in compliance;
 - c. Wholly or partly suspend or terminate the grant;
 - d. Recommend the U.S. Treasury initiate suspension or debarment proceedings under Part 180 of Title 2 of the C.F.R.;
 - e. Withhold further federal awards for the project or program; or
 - f. Take other remedies that are legally available.