

SUPPLEMENTAL MATERIALS

AGENDA ITEM VIII-G (3)

Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter M, Sections 13.302 – 13.305, concerning Total Research Expenditures

RECOMMENDATION: Approval

Background Information:

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter M, Section 13.302 to 13.305. This amendment will incorporate clarifying changes to the reporting of total research expenditures to the Coordinating Board for use in state research funding allocations for the Comprehensive Research Fund, National Research Support Fund, Texas University Fund (TUF), and certain health-related institution funding formulas (e.g., research enhancement formula and certain mission specific performance-based research formulas). The rules will provide guidance to general academic teaching institutions with an integrated health-related institution that submit a singular annual financial report on how to allocate research expenditures, distinguishing between the general academic and health-related components.

The Coordinating Board used negotiated rulemaking to develop these rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Rule 13.302, Definitions, improves clarity in research expenditure reporting. The term, "Health Related Institutions," replaces "medical and dental units" for consistency across rules. Detailed updates to "Institutional Fund Expenditures" include specifying sources like tobacco settlement receipts and patient income while removing the requirement to report unrecovered indirect costs due to confidentiality concerns. Other changes refine definitions, eliminate redundant language, and provide necessary statutory citations, ensuring clearer guidance on the categorization of expenditures, particularly concerning ineligible expenditures, patient income, and grants.

Rule 13.303, Standards and Accounting Methods for Determining Total Research Expenditures, has been reorganized to clarify that subsection (a) applies to all institutions and replace "expenses" with "expenditures." New subsection (b) provides guidance for general

academic institutions with a health-related component that is listed in the General Appropriations Act on allocating research expenditures in a singular report, effective from fiscal year 2025. Subsection (c) retains the previous language without substantive changes.

Rule 13.304, Reporting of Total Research Expenditures, removes the word "public," since the statutory definition of institution of higher education is a Texas public institution (Texas Education Code, §61.003(8)).

Rule 13.305, Institutional Reporting of Total Research Expenditures by Funding Source, clarifies certain terms, removes the concept of a "narrow" definition of research and development expenditures, and removes reference to unrecovered indirect costs.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: August 9, 2024

The 30-day comment period with the *Texas Register* ended on: September 8, 2024

Summary of comments received: No comments were received regarding this rule during the comment period. One comment was received after the comment period which noted that there may be confusion regarding the implications of Rule 13.303 (b) as to which institutions are affected by the rule. To address this, a reference was included in the rule to the General Appropriations Act to clarify which health related institutions are affected.

CHAPTER 13 FINANCIAL PLANNING

SUBCHAPTER M TOTAL RESEARCH EXPENDITURES

§13.302 Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) All Other Expenditures--~~Expenditure~~ ~~[Expenditures]~~ of all other funds not reported under the expenditure categories of Business, Nonprofit Organizations, Institutional Funds, State and Local Government or Federal Expenditures, as defined in this section. All Other Expenditures includes funds from foreign universities, foreign governments, portions of gifts designated for research by the donors (including from the reporting institution's 501(c)(3)), and nonfederal and nonstate funds received from other institutions of higher education.

(2) Annual Financial Report (AFR)--Institutional financial report for one fiscal year as required by Texas Education Code, §51.005.

(3) Areas of Special Interest--Major research topics important to the public, or required by statute, as listed in the Research Expenditure Survey.

(4) Board--The governing body of the Texas Higher Education Coordinating Board.

(5) Business Expenditures--~~Expenditure~~ ~~[Expenditures]~~ of funds from domestic or foreign for-profit organizations.

(6) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.

(7) Coordinating Board Staff or Board Staff--Agency staff acting under the direction of the Board or ~~and~~ the Commissioner.

(8) Federal Expenditures--Expenditure ~~[Expenditures]~~ of funds received by the reporting institution from any agency of the United States government for research and development. These include reimbursements, contracts, grants, and any identifiable amounts spent on research and development from Federal programs including Federal monies passed through state agencies to the reporting institution and federal funds that were passed through to the reporting institution from another institution.

(9) General Academic Teaching Institution--Any public general academic teaching institution as defined in Texas Education Code, §61.003(3).

(10) Health Related Institution--Any medical and dental unit as defined in Texas Education Code, §61.003(5).

(11) [(10)] Institutional Fund Expenditure [Expenditures]--This includes funds expended for R&D that are controlled at the institutional level, such as Available University Fund (AUF), Tobacco Settlement Receipts, patient income (unless defined by Texas Education Code, §51.009(c)), or other funding held locally used for R&D, excluding institution research administration and support. This category includes cost sharing from unrestricted sources (cost sharing from restricted sources should be classified according to the underlying source) and ~~;~~ unrestricted funds from the reporting institution's 501(c)(3) ~~and unrecovered indirect costs. Unrecovered indirect costs may not exceed the institution's federally negotiated Facilities and Administrative rate].~~

~~[(11) Medical and Dental Unit--Any public health related institution as defined in Texas Education Code, §61.003(5).]~~

(12) Nonprofit Organization Expenditures--~~Expenditure~~ Expenditures of funds from domestic or foreign non-profit foundations and organizations, except universities and colleges.

(13) Other Agency of Higher Education--Any public agency of higher education as defined in Texas Education Code, §61.003(6).

(14) Pass-through to Sub-recipient--Sponsored project funds that are passed from one entity to a sub-recipient. The sub-recipient expends the funds to carry out part of the sponsored project on behalf of the pass-through entity.

(15) Private Expenditures--~~Expenditure~~ Expenditures of funds reported as Business Expenditures, Non-profit Organization Expenditures, and All Other Expenditures. ~~Amounts exclude R&D expenditures that do not meet the narrow definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey.~~

(16) Research and Development (R&D)--~~Research and Development~~ R&D activity is creative and systematic work undertaken in order to increase the stock of knowledge "including knowledge of humankind, culture, and society" and to devise new applications of available knowledge. R&D covers three activities: basic research, applied research, and experimental development. R&D does not include public service or outreach programs, curriculum development (unless included as part of an overall research project), or non-research training grants. R&D excludes ~~does not include~~ capital projects (i.e., construction or renovation of research facilities).

(17) R&D Training--Activities involving the training of individuals in research techniques are included in R&D, where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(18) Research Expenditures or Expenditures--In a specific fiscal year, expenditure ~~expenditures~~ of funds paid out by an institution to support institutional Research and Development activities. Expenditures exclude ~~do not include~~ in-kind donations.

(19) Research Expenditure Survey--The mandatory survey instrument administered by the Coordinating Board pursuant to Texas Education Code, §61.0662, that establishes total R&D expenditures for each institution by research field and areas of special interest, both accounted by funding source. ~~The survey includes a Research Expenditure Survey, specific definition of R&D, and reporting guidelines for R&D activities.~~ The survey includes specific adjustments to account for ineligible R&D expenditures and separately accounts for ~~unrecovered indirect costs and~~ pass-through expenditures to other general academic teaching institutions, health related institutions ~~medical and dental units~~, or other agencies of higher education in Texas, by funding source.

(20) Research fields--Subject areas for R&D, as listed in the Research Expenditure Survey.

(21) Sources and Uses Template--An annual survey of Texas general academic and health-related institutions, administered by the Coordinating Board pursuant to Texas Education Code, §61.065, and §13.63 of this chapter (relating to Additional Financial Information Reporting), to detail financial information and provide specific information about revenues and expenditures.

(22) Sponsored Projects--Sponsored projects include grants, contracts, cooperative agreements and other legally binding means of transfer under which an entity provides a return benefit to, or agrees to provide a defined deliverable or complete a specified set of activities for, an external sponsor in exchange for funds. External sponsors are those that are not part of the entity.

(23) State and Local Government Expenditures--Expenditure [~~Expenditures~~] of funds received for R&D via appropriations from the state of Texas, including non-formula support items, patient income as defined in Texas Education Code, §51.009(c), and funds received from any state, county, municipality, or other local government entity in the United States, including state health agencies. Expenditures include state funds that support R&D at agricultural and other experiment stations.

(24) State of Texas Contracts and Grants--A subset of State and Local Government Expenditures that includes only expenditures of interagency contracts, contracts with Texas local governments, and other such state funding sources for R&D, including grants.

(25) State of Texas Source Expenditures--A subset of State and Local Government Expenditures that includes only expenditures of funds appropriated by the state of Texas for research, including state appropriated research non-formula support items and research formula funding.

§13.303. Standards and Accounting Methods for Determining Total Research Expenditures.

~~[(a) R&D expenditures for Texas A&M University include consolidated expenses from Texas A&M University and its service agencies.]~~

(a) [(b)] Research expenditure reporting for all institutions of higher education. Each institution shall reconcile its research expenditures [~~Research expenses~~] from the AFR [~~shall be reconciled~~] to the total R&D expenditures of the Research Expenditure Survey by a:

(1) Decrease of the AFR total by the amount of R&D expenditures [~~expenses~~] that do not meet the [~~narrow~~] definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey, such as pass-throughs [~~Pass-throughs~~] to other general academic teaching institutions, health related institutions [~~medical or dental units~~], and other agencies of higher education in Texas [~~do not meet the narrow definition of R&D expenditures~~].

(2) Increase of the AFR total by the amount of recovered indirect costs associated with expenditures [~~expenses~~] for R&D as reported through the Research Expenditure Survey.

(3) Increase of the AFR total by the amount of capital outlay for research equipment, not including R&D plant expenditures [~~expenses~~] or construction.

(4) Increase of the AFR total by the amount of expenditures for conduct of R&D made by an institution's research foundation, or 501(c) corporation on behalf of the institution, and not reported in the institution's AFR, including recovered indirect costs and capital outlay for research equipment.

(5) Increase of the AFR total to include expenditures, including recovered indirect costs and capital outlay for research equipment [~~expenses~~] related to research performed by the agency or institution but reported by [~~recognized on the AFR of~~] a separate agency or institution that [~~who~~] received and expended the funding. The agency or institution that [~~who~~] received and expended the funding but did not perform the research must make a corresponding decrease of its AFR total for this amount. This accounting event is not a pass-through to subrecipient as defined in §13.302(14) of this subchapter (relating to Definitions).

(b) This subsection applies to the general academic teaching institutions with a health related institution as defined in §13.302(10) of this subchapter (relating to Definitions); that is listed as a health related institution in the General Appropriations Act, Special Provisions Relating only to State Agencies of Higher Education; and that submit a singular annual financial report.

(1) Research expenditures shall be reported separately by the general academic teaching institution and health related institution using a methodology that allocates amounts to the general academic teaching institution and health related institution according to the proportion of the expenditures attributed to the principal investigator and any co-investigators.

(2) The primary appointment of each investigator shall determine to which entity (the general academic teaching institution or health related institution) the investigator's allocated expenditures are assigned and reported.

(3) Subsection (b) of this section will take effect beginning with the reporting of expenditures made during fiscal year 2025.

(c) R&D expenditures for Texas A&M University include consolidated expenditures from Texas A&M University and its service agencies.

§13.304. Reporting of Total Research Expenditures.

(a) The Coordinating Board [~~staff~~] shall annually post a report of total research expenditures of all [~~public~~] institutions of higher education on its website.

(b) Not later than January 1 of each year, the Board shall submit to the legislature information regarding human stem cell research reported by the institutions to the Coordinating Board in the Research Expenditure Survey from reports required by this subsection.

§13.305. Institutional Reporting of Total Research Expenditures by Funding Source.

(a) Each institution [~~Institutions~~] shall report all research expenditures on the Research Expenditure Survey using the following categories:

- (1) Federal Expenditures;
- (2) State and Local Government Expenditures;
- (3) Business Expenditures;
- (4) Nonprofit Organization Expenditures;
- (5) Institutional Fund Expenditures; and
- (6) All Other Expenditures.

(b) Each institution [~~Institutions~~] shall report State of Texas Source Expenditures and State of Texas Contracts and Grants as subsets of State and Local Government Expenditures.

(c) Each institution [~~Institutions~~] shall report the original source of expenditures, unless the institution lacks source information [~~when possible~~]. Institutions shall report each category and show adjustments by the amount of R&D expenditures [~~expenses~~] that do not meet the [~~narrow~~] definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey, as defined in §13.302(19) of this subchapter (relating to Definitions), such as [~~Unrecovered indirect costs and~~] pass-throughs to other general academic teaching institutions, health related institutions [~~medical and dental units~~], and other agencies of higher education in Texas [~~do not meet the narrow definition of R&D expenditures~~].