

# **TWDB FIF Category 1**

## **Subcontract Guidance Document**

This guidance document describes the key items that must be included within a Grantee's subcontract with a consultant to meet TWDB FIF Cat 1 program standards. All consultant subcontractors performing work for FIF Cat 1 projects should ensure that the subcontracts provided to the Grantee address the information included in this document.

All subcontracts will be reviewed by TWDB to ensure they include key items. If during review TWDB finds that a subcontract does not meet the requirements described below, a request for information (RFI) will be issued to the Grantee requesting edits and/or clarification to the subcontract. Once issues are addressed, an updated subcontract must be resubmitted to the TWDB Project Manager (PM) for review. This will continue until all requirements have been met. Once approved, the Grantee will receive a response from the PM informing them that the subcontract is acceptable, and they may proceed to contract execution. A copy of the executed subcontract must be sent to the PM for proper file storage. Executed subcontracts that are missing required items may need to be amended.

TWDB FIF Cat 1 Project funds cannot be released for subcontract work without subcontract approval.

*The following key items are needed within subcontracts:*

### **I. Schedule**

The subcontract project schedule will need to be consistent and within the range of the Grant Agreement timeline. This may vary by project. The project's schedule will need to reference a specific date, or the Grant Agreement, to state when the subcontractor's work will be completed. Assumptions based on Notices to Proceed or duration from "start date" are not acceptable. If the subcontract expiration date does go past the Grant Agreement expiration date, it will need to be clear that any work on the contract past that point cannot be paid through FIF Grant funds.

### **II. Budget**

Subcontract budgets must align with the approved Task and Expense Budgets contained in EXHIBIT C of the Grant Agreement, or in smaller subcontract amounts for subtasks, or in cases where there are multiple subcontracts for each Task, but the total subcontract amounts, in aggregate should not be more than what is listed in the Task and Expense Budgets.

If the Task Budget provided by the subcontract does not match the dollar amounts that were given in the Grant Agreement, then an Amendment to the subcontract will need to be executed.

**Note:** Scope of Work Task names will need to match what was given in the Grant Agreement.

### **III. Payments**

TWDB Grants cannot be reimbursed using a "percent complete" payment structure. Please see the following language from page 21 of the FIF program guidance manual (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0104.pdf>)

"For the disbursement of the grant funds, the recipient is required to provide TWDB with source documentation covering the amount of funds requested. This would typically include invoices or other forms of source documentation acceptable to TWDB in support of the grant funds requested. **TWDB will not use the percentage of completion method to disburse any FIF grant funds.**"

The Subcontract must ensure the payments will be issued only by either: (1) Time and Materials, or **upon approval by TWDB** (2) Deliverables Completed. See examples below.

All payment requests **MUST** include the following:

- Progress report (Exhibit E of the Grant Agreement)
- Documentation for reimbursement billing /expenses categorized in accordance with the approved Task and Expense Budgets (Exhibit C of the Grant Agreement)
- Completed Outlay Workbook (provided by TWDB)

**Allowable Payment Structure Examples:**

(1) Time and Materials: Includes a description of each task, estimated hours to complete each, and rates.

TASK	TASK DESCRIPTION	PROJECT MANAGER	ASST. PROJECT MANAGER	LEAD ENGINEER	QA/QC ENGINEER	PROJECT ENGINEER	GIS SPECIALIST	ENGINEERING TECH	AGENCY/PI COORD.	ADMIN.	COST
2	<b>PUBLIC &amp; STAKEHOLDER MEETINGS</b>										\$127,520.00
2.1	Initial Coordination										\$3,640.00
2.1a	Kick-off Meeting: Overall project; solicitation goals/strategies	4	4	4					8	4	\$3,640.00
2.2	<b>MEETING 1</b>										\$42,960.00
2.2a	Develop meeting strategies, questionnaires, announcements, and mailouts	4	8	8					40	20	\$10,680.00
2.2b	Develop Presentation Materials for existing condition preliminary results and ID'd risk areas	4	8	8		8	16	40	8	8	\$14,040.00
2.2c	Perform public announcements, mailouts, and meeting scheduling	2	4							16	\$5,120.00
2.2d	Conduct Public Meeting #1	4	4	4						12	\$3,440.00
2.2e	Document, summarize, and analyze public input	4	8	8						24	\$9,680.00
2.3	<b>MEETING 2</b>										\$40,760.00
2.3a	Develop meeting strategies, questionnaires, announcements, and mailouts	4	8	8					24	12	\$7,880.00
2.3b	Develop Presentation Material for existing condition results and preliminary proposals	4	8	8		8	16	40	8	8	\$14,040.00
2.3c	Perform public announcements, mailouts, and meeting scheduling	2	4							16	\$5,120.00
2.3d	Conduct Public Meeting #2	4	4	4						12	\$4,040.00
2.3e	Document, summarize, and analyze public input	4	8	8						24	\$9,680.00
2.4	<b>MEETING 3</b>										\$40,160.00
2.4a	Develop meeting strategies, questionnaires, announcements, and mailouts	4	8	8					24	12	\$7,880.00
2.4b	Develop Presentation Materials for proposed alternatives and recommended plan results	4	8	8		8	16	40	8	8	\$14,040.00
2.4c	Perform public announcements, mailouts, and meeting scheduling	2	4							16	\$5,120.00
2.4d	Conduct Public Meeting #3	4	4	4						12	\$3,440.00
2.4e	Document, summarize, and analyze public input	4	8	8						24	\$9,680.00
	<b>HOURS SUB-TOTALS</b>	58	100	88	0	24	48	120	264	204	
	<b>CONTRACT RATE PER HOUR</b>	\$200.00	\$180.00	\$180.00	\$170.00	\$165.00	\$140.00	\$120.00	\$100.00	\$150.00	
	<b>TOTAL LABOR COSTS</b>	\$11,600.00	\$18,000.00	\$15,840.00	\$0.00	\$3,960.00	\$6,720.00	\$14,400.00	\$26,400.00	\$30,600.00	
	<b>% DISTRIBUTION OF STAFFING</b>	6.4%	11.0%	9.7%	0.0%	2.6%	5.3%	13.2%	29.1%	22.5%	

(2) Table of Deliverables: Includes a description of each deliverable and cost. Invoices are to be submitted and processed upon the completion of each task.

Table C.3 Estimated Deliverables Schedule

<b>Deliverable &amp; Month</b>	<b>Amount</b>
<b>2022</b>	<b>\$181,200.00</b>
<b>Qtr 1</b>	<b>\$32,500.00</b>
March	\$32,500.00
Delineate watershed (GIS)	\$10,000.00
RTHS Data Model	\$12,500.00
Validate watershed delineations (GIS)	\$10,000.00
<b>Qtr 2</b>	<b>\$148,700.00</b>
April	\$148,700.00
Initial Flood Map Development (GIS)	\$88,000.00
Initial RTHS Site Identification (GIS)	\$10,000.00
User Interface Predevelopment Plan	\$15,000.00
User Interface Requirements Validation	\$12,500.00
RTHS Data Integration Upgrade	\$15,200.00
Briefing Report 1	\$8,000.00

**IV. Project Area**

The subcontract project area should align with the project area in the Grant Agreement and can consist of either a portion of, or the entire project area, depending on subcontractor’s responsibility. The project area cannot increase, relative to the Grant Agreement, without proper justification and approval from the Board.

Check to see if the subcontract project area overlaps with any other subcontracts or adjacent FIF CAT 1 project areas. Overlapping project areas create concerns over duplication of work which TWDB will not fund. It is the subcontractor’s responsibility to state how scope of work efforts will not be duplicated within their project area, and how they will coordinate with the other FIF CAT 1 projects and/or subcontractors to ensure that this requirement is met.

**V. Scope of Work (SOW)**

**a. Task Items**

SOW must align with what was provided in the Grant Agreement. All Tasks included in the Grant Agreement SOW must be included in the subcontract indicating what Tasks or subtasks will be performed, except in cases where limited tasks may be performed by Grantee or other subcontractors. For those cases, the subcontract’s SOW should only include the Tasks and subtasks being performed by that subcontractor (i.e., surveying). All other SOW tasks should be removed. Additional clarification or detail explained in the subcontract is allowed, but there should not be any additional SOW tasks or language that conflicts with the executed Grant Agreement.

**b. Special TWDB Language**

If any special TWDB language was added to any task in the SOW of the Grant Agreement, such as National Flood Insurance Program (NFIP) requirements, or language for Alternatives Analysis, this language will also need to be included in the subcontract SOW if the subcontractor is requested to perform flood mitigation alternatives evaluation tasks. See special language below for Alternatives Analysis.

**1. Special Language (for projects with Alternatives Analysis):**

When possible and as applicable, evaluations of flood risk reduction solutions, including flood mitigation projects, should be consistent with “Technical Guidelines for Regional Flood Planning,” Exhibit C to Regional Flood Planning Grant Contracts, which can be found at: <https://www.twdb.texas.gov/flood/planning/planningdocu/2023/index.asp>.

Each feasible flood mitigation alternatives evaluated must identify and compare cost and benefits of projects. Quantification of cost will include engineering, permitting, easement and/or property acquisition, capital cost, operation and maintenance, and other costs as applicable. Quantification of benefit of the project will include the following items, as applicable:

1. Number of structures with reduced 100-year (1% annual chance) flood risk.
2. Number of structures removed from 100-year (1% annual chance) flood risk.
3. Number of structures removed from 500-year (0.2% annual chance) flood risk.
4. Residential structures removed from 100-year (1% annual chance) flood risk.
5. Estimated Population removed from 100-year (1% annual chance) flood risk.
6. Critical facilities removed from 100-year (1% annual chance) flood risk (#).
7. Number of low water crossings removed from 100-year (1% annual chance) flood risk (#).
8. Estimated reduction in road closure occurrences.
9. Estimated length of roads removed from 100-year flood risk (miles).
10. Estimated farm & ranch land removed from 100-year flood risk (acres).  
Estimated farm & ranch land at 100-year flood risk (acres) should only include farm and ranch land that are negatively impacted by flooding events and should not include land that benefits from floodplains for example rice fields.
11. Estimated reduction in fatalities (if available).
12. Estimated reduction in injuries (if available).
13. Pre-Project Level-of-Service
14. Post-Project Level-of-Service
15. Cost/ Structure removed
16. Percent Nature-based Solution (by cost)
17. Negative Impact (Y/N)
18. Negative Impact Mitigation (Y/N)
19. Social Vulnerability Index (SVI)
20. Water Supply Benefit (Y/N)
21. Traffic Count for Low Water Crossings

The recommended solutions must be permittable, constructible and implementable.

The recommended flood risk reduction solutions must have no negative effect on neighboring areas in accordance with statutory requirements for regional flood plans (Texas Water Code § 16.062(i) and (j)(2)). Recommended flood risk reduction solutions, including flood mitigation projects, must meet the definition and requirements regarding no negative effect identified in Exhibit C to the Regional Flood Planning Contracts, Technical Guidelines for Regional Flood Planning, which can be found at:

<https://www.twdb.texas.gov/flood/planning/planningdocu/2023/index.asp>. The flood mitigation projects identified from this FIF CAT 1 study must comply with 'no negative effect' in order to be included in the regional flood plans.

## **VI. General Contract Language**

The clause given in Section II, Article VII SUBCONTRACTS of the Grant Agreement (Provided below on page 5) must be included in all subcontracts. This clause has the subcontractor acknowledge that the Grant Agreement is the master contract, and that the subcontractor is subject to all applicable requirements therein. This requirement can be done by inserting the exact clause language with references to the Grant Agreement (See below) into the subcontract or including it by reference (Article VII SUBCONTRACTS) and attaching the entire executed TWDB Grant Agreement as an exhibit to the subcontract.

### **(Provided in its entirety from the Grant Agreement)**

#### **ARTICLE VII SUBCONTRACTS**

1. Each Subcontract entered into to perform required work under this CONTRACT must contain the following:
  - A. A detailed budget estimate with specific cost details for each task or specific item of work to be performed by the Subcontractor and for each category of reimbursable expenses.
  - B. A clause stating the following: "Subcontractor agrees and acknowledges that it is subject to all applicable requirements of the master contract between (Contractor Name) and the Texas Water Development Board. Subcontractor adopts by reference the requirements of Article VII of the TWDB Contract for this Subcontract."

All Subcontracts entered into to perform required work under this CONTRACT are also subject to the following requirements:

1. The Subcontract is subject to audit by the Texas State Auditor's Office, and Subcontractor must cooperate with any request for information from the Texas State Auditor, as further described in Section II, Article X, Paragraph 1K;
2. Payments under the Subcontract are contingent upon appropriation of funds by the Texas Legislature, as further described in Section II, Article X, Paragraph 1C;
3. Ownership of data, materials, and work papers, in any media, that is gathered, compiled, adapted for use, or generated by Subcontractor or GRANTEE will become data, materials, and work papers owned by TWDB and Subcontractor will have no proprietary rights in such data, materials, and work papers, except as further described in Section II, Article V;
4. Subcontractor must keep timely and accurate books and records of accounts according to Generally Accepted Accounting Principles;
5. Subcontractor is solely responsible for securing all required licenses and permits from local, state, and federal governmental entities and solely responsible for obtaining sufficient insurance in accordance with the general standards and practices of the industry or governmental entity; and
6. Subcontractor is an independent contractor and TWDB has no liability resulting from any failure of Subcontractor that results in breach of contract, property damage, personal injury, or death.