

TEXAS HISTORICAL COMMISSION

TEXAS ADMINISTRATIVE CODE (LAST UPDATED: DECEMBER 15, 2019)

■ TITLE 13. CULTURAL RESOURCES

■ PART 2. TEXAS HISTORICAL COMMISSION

■ CHAPTER 12. TEXAS HISTORIC COURTHOUSE PRESERVATION PROGRAM

SECTION 12.1. Object

The Texas Historical Commission, hereafter referred to as the commission, is specifically empowered to adopt reasonable rules concerning the Texas Historic Courthouse Preservation Program for the purpose of distributing funds provided by the State Legislature. Implementation of this grant and loan program is the objective of this chapter.

Source Note: The provisions of this §12.1 adopted to be effective October 31, 1999, 24 TexReg 9277

SECTION 12.3. Scope

The intent of these rules is to provide a system by which the commission may grant or loan money to a county or municipality that owns a historic courthouse, for the purpose of preserving or restoring the courthouse, if the county's application meets the standards of the Texas Historic Courthouse Preservation Program. Restrictions on who can obtain funds and how the funds are used are within the legal authority of the commission, and can be defined through the rule-making authority of the commission.

Source Note: The provisions of this §12.3 adopted to be effective October 31, 1999, 24 TexReg 9277; amended to be effective March 6, 2014, 39 TexReg 135

SECTION 12.5. Definitions

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

(1) Texas Historic Courthouse Preservation Program. Means the grant or loan program created by Texas Government Code §§442.0081 - 442.0083.

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- (2) The Courthouse Fund Account. Means a separate account in the general revenue fund. The account consists of transfers made to account, payment on loans made under the historic courthouse preservation program, grants and donations received for the purposes of the historic courthouse preservation program, and income earned on investments of money in the account.
- (3) Texas Courthouse Preservation Program Advisory Committee. Means a committee that serves the commission in matters concerning the courthouse program.
- (4) Courthouse. Means the principal building(s) which houses county government offices and courts and its (their) surrounding site(s) (typically the courthouse square).
- (5) Historic courthouse. Means a county courthouse or building that previously served as a county courthouse that is at least 50 years old prior to the date of application, with the initial date of service defined as the date of the first official commissioners court meeting in the building.
- (6) Historic courthouse project. Means an undertaking to preserve or restore a historic courthouse.
- (7) Historic courthouse structure. Means a courthouse structure that is a structure that currently or previously served as the official county courthouse of the county in which it is located; and that is:
- (A) at least 50 years old prior to the date of application, with the initial date of service defined as the date of the first official commissioners court meeting in the building;
 - (B) listed on the National Register of Historic Places;
 - (C) designated a Recorded Texas Historic Landmark;
 - (D) designated a State Antiquities Landmark;
 - (E) determined by the commission to qualify as an eligible property under the designations noted above;
 - (F) certified by the commission to the other state agencies as worthy of preservation; or,
 - (G) designated by an ordinance of a municipality with a population of more than 1.5 million as historic.
- (8) Master preservation plan or master plan. Means a comprehensive planning document that includes the historical background of a courthouse, as well as a detailed analysis of its architectural integrity, current condition, and future needs for preservation. The commission shall promulgate specific guidelines for developing the document.
- (9) Conservation Easement. Means a voluntary legal agreement whereby the property owner grants the Commission an interest in the property for the purpose of preservation of historic, architectural, scenic and open space values, also may be called a preservation easement.

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(10) Construction Documents (also known as contract documents). Means the written and graphic instructions used for construction of a project which are prepared by an architect and their engineering consultants. May also be called architectural plans and specifications.

(11) Restoration. Means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restored period. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(12) Reconstruction. Means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(13) Preservation. Means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(14) Rehabilitation. Means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(15) Match requirement. Means the percentage of the total project cost that must be provided by a county or municipality.

(16) Current cash match. Means monies to be paid by a county or municipality as part of the preservation project described in a current request for grant or loan funding.

(17) Current in-kind match. Materials and labor to be donated as part of the preservation project described in a current request for grant or loan funding.

(18) Planning match. Means county or municipal monies spent on an approved master preservation plan or approved construction plans and specifications.

Source Note: The provisions of this §12.5 adopted to be effective October 31, 1999, 24 TexReg 9277; amended to be effective March 30, 2003, 28 TexReg 2741; amended to be effective July 2, 2006, 31 TexReg 5096; amended to be effective March 6, 2014, 39 TexReg 1357; amended to be effective January 2, 2018, 42 TexReg 7678

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SECTION 12.7. Grant or Loan Program

(a) Property Eligibility. In order to be eligible for grants or loans under the courthouse program, a historic courthouse owned by either a county or municipality must be determined a historic courthouse structure as defined in §12.5 of this chapter.

(b) Master plan requirement. In order to be eligible for funding, a county or municipality must have completed a current master preservation plan approved by the commission. The commission may require an outdated master plan be updated prior to the date of application or a before a grant or loan is approved.

(c) Types of Assistance. The commission may provide financial assistance in the form of grants or loans. Grant or loan recipients shall be required to follow the terms and conditions of the Texas Historic Courthouse Preservation Program and other terms and conditions imposed by the commission at the time of the grant award or loan.

(d) Match for grant or loan assistance. Applicants eligible to receive grant or loan assistance must provide a minimum of 15% of the total project cost or other match requirements as determined by the commission. Credit toward match may be given for a county's or municipality's prior capital and in-kind contributions and prior master planning costs. Not less than one half of the match must be derived from current cash match and/or planning match.

(e) Allowable use of grant or loan monies.

(1) A county or municipality that receives money under the courthouse program must use the money only for preservation, reconstruction, rehabilitation, restoration or other expenses that the commission determines eligible.

(2) All work must comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised).

(3) Individual grants or loans may not exceed \$6 (six) million and the cumulative total may not exceed \$6 million to any one county or municipality.

(4) The commission may grant a different amount than requested in a courthouse grant application.

(f) Administration. The courthouse program shall be administered by the commission.

(g) Advisory Committee.

(1) The commission may appoint Advisory Committees or other working groups to advise the commission on matters related to the Texas Historic Courthouse Preservation Program including courthouse maintenance.

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(2) The commission should consider the following when selecting members of an advisory committee or working group:

(A) geographic diversity;

(B) population;

(C) area of expertise; and/or

(D) representation of the public interest.

(h) Procedures. The commission shall adopt procedures, and revise them as necessary, to implement the Texas Historic Courthouse Preservation Program.

(i) Compliance with current program grant manual and all other rules, statutes, policies, procedures and directives is mandatory for all historic courthouse projects unless written exception is provided by the commission due to unforeseen circumstances beyond the control of grantee or grantor.

(j) Grants for Construction Plans and Specifications:

(1) The commission may make grants for the purpose of completing construction plans and specifications for courthouse construction projects.

(2) A county or municipality receiving a grant for completing plans and specifications must apply for a construction grant from this program at the next grant program funding opportunity following commission acceptance of the complete plans and specifications. In the subsequent grant application, the county or municipality must provide at least an equal level of commitment to program components as provided in their previous funding applications. If a construction grant is awarded, the county or municipality must go forward with construction of the courthouse project so funded. If a grant is not awarded, the county or municipality must continue to apply for construction grants and make a good-faith effort to receive the grant when subsequent opportunities arise.

(3) A county or municipality that does not apply for a construction grant in accordance with this section at each grant funding opportunity during the following six years or does not complete the courthouse project by other means within these six years following the commission's acceptance of the plans and specifications will be required to repay the grant for plans and specifications to the commission unless the commission votes to allow additional time to accomplish the construction project.

(4) A county or municipality that continues to apply for construction grants and makes a good-faith effort to receive the award and does not receive a grant or is able to complete the construction project by other good faith efforts will not be required to repay the grant.

Source Note: The provisions of this §12.7 adopted to be effective October 31, 1999, 24 TexReg 9277; amended to be effective March 30, 2003, 28 TexReg 2741; amended to be effective June 1, 2004, 29 TexReg 5337; amended to be effective July 2, 2006, 31 TexReg 5097; amended to

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be effective March 6, 2014, 39 TexReg 1357; amended to be effective November 28, 2018, 43 TexReg 7670

SECTION 12.9. Application Requirements and Considerations

(a) A county or municipality that owns a historic courthouse may apply to the commission for a grant or loan for a historic courthouse project. The application must include:

- (1) the address of the courthouse;
- (2) a statement of the historic designations that the courthouse has or is likely to receive;
- (3) a statement of the amount of money that the county or municipality commits to contribute to the project;
- (4) a statement of previous county or municipal monies spent on planning which the county or municipality may be allowed as credit toward their match;
- (5) a statement of whether the courthouse is currently functioning as a courthouse or other public facility;
- (6) copies of any plans, including the required master preservation plan or construction plans and specifications, that the county or municipality may have for the project unless the commission already has these plans on file;
- (7) copies of existing deed covenants, restrictions or easements held by the commission or other preservation organizations;
- (8) statements of support from local officials and community leaders; and
- (9) the current cost estimate of the proposed project; and
- (10) any other information that the commission may require.

(b) The Texas Historic Courthouse Preservation Program will be a competitive process, with applications evaluated and grants awarded based on the factors provided in this section, including the amount of program money for grants.

(1) Funding requests may be reduced by the commission to reflect ineligible project costs or smaller scopes or phases of work such as planning for the construction work.

(2) The commission may adjust the amount of a previously awarded grant up and/or down based on the changing conditions of the property and the program.

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(c) In considering whether to grant an application, the commission will assign weights to and consider each of the following factors:

- (1) the status of the building as a functioning courthouse;
- (2) the age of the courthouse;
- (3) the degree of endangerment;
- (4) the courthouse is subject to a current conservation easement or covenant held by the commission;
- (5) the proposal is in conformance with the approved master plan and addresses the current condition and needs of the property in proper sequence;
- (6) the county or municipality agrees to place/extend a preservation easement/covenant and/or deed restriction as part of the grant process;
- (7) the importance of the building within the context of an architectural style;
- (8) the proposal addresses and remedies former inappropriate changes;
- (9) the historic significance of the courthouse, as defined by [36 CFR §101](#)(a)(2)(A) and (E), and NPS Bulletin 15, "How to Apply the National Register Criteria for Evaluation;"
- (10) the degree of surviving integrity of original design and materials;
- (11) if a county or municipality submits completed and commission-approved construction plans and specifications for proposed work at the time of the application, provided the plans and specifications comply with the previously approved master plan;
- (12) the use of the building as a courthouse after the project;
- (13) the county's or municipality's provision of a match greater than 15% of the grant request;
- (14) the degree to which the proposal achieves a fully restored county courthouse;
- (15) the status of the courthouse in terms of state and local historical designations that are in place;
- (16) the county or municipal government's provision of preservation incentives and support of the county historical commission and other county-wide preservation efforts;
- (17) the location of the county in a region with few awarded courthouse grant applications;

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(18) the existence of a plan for physically protecting county records during the restoration and afterwards, as well as an assessment of current and future space needs and public accessibility for such records, if county-owned;

(19) the existence of a strong history of compliance with the state courthouse law (Texas Government Code, §§442.0081 - 442.0083 and the Antiquities Code of Texas, Texas Natural Resources Code Chapter 191);

(20) the effort to protect and enhance surrounding historic resources;

(21) the evidence of community support and county or municipality commitment to protection; and

(22) the applicant's local funding capacity as measured by the total taxable value of properties in the jurisdiction.

(d) Other Considerations.

(1) The factors noted in subsection (c) of this section, and any additional ones determined necessary by the commission, will be published prior to each individual grant round as part of the formal procedures for the round.

(2) The commission may distribute a portion of the funds available for each grant period to be used for specific purposes on an expedited basis and/or granted through different criteria than other funds. Such specific purposes may include, but are not limited to, the following:

(A) Emergency repairs necessary to address or prevent catastrophic damage to the courthouse; or

(B) Compliance with the Americans with Disabilities Act or other state or federally mandated repairs or modifications; or

(C) Previously awarded projects that require additional funding to accomplish the intended goals of the project; or

(D) Updates to approved courthouse preservation master plans.

(3) Any such distribution to a specific purpose or change in criteria must be decided by a vote of the commission and advertised to the potential grantees prior to the date for the submission of applications.

(e) As a condition for a county or municipality to receive money under the courthouse fund, the commission may require creation of a conservation easement on the property, and may require creation of other appropriate covenants in favor of the state. The highest preference will be given to counties agreeing to the above referenced easements or covenants at the time of application.

(f) The commission shall provide oversight of historic courthouse projects.

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- (1) The commission may make periodic inspections of the projects during construction and/or upon and following completion to ensure compliance with program rules and procedures.
- (2) The commission may require periodic reports to ensure compliance with program rules and procedures and as a prerequisite to disbursement of grant or loan funds.
- (3) The commission may adopt additional procedures to ensure program compliance.

Source Note: The provisions of this §12.9 adopted to be effective October 31, 1999, 24 TexReg 9277; amended to be effective October 7, 2001, 26 TexReg 7529; amended to be effective July 2, 2006, 31 TexReg 5097; amended to be effective March 6, 2014, 39 TexReg 1357; amended to be effective November 30, 2015, 40 TexReg 8641; amended to be effective January 2, 2018, 42 TexReg 7678; amended to be effective November 28, 2018, 43 TexReg 7670