August 9, 2019

Susan M. Redford  
Executive Director  
Texas Association of Counties  
1210 San Antonio Street  
Austin, Texas 78701

Dear Director Redford:

During the 86th Regular Legislative Session (2019), the Texas Legislature passed House Bill 4280 which was signed by Governor Greg Abbott and becomes effective on September 1, 2019. HB 4280 modifies the existing Transportation Infrastructure Fund (Chapter 256, Texas Transportation Code), referred to as the County Transportation Infrastructure Fund (CTIF). The 86th Legislature also appropriated $250 million for the CTIF Program, $125 million in Senate Bill 500 from the Economic Stabilization Fund, and $125 million in House Bill 1 (General Appropriations Act, Rider 47) from funds appropriated to the Texas Department of Transportation (TxDOT).

HB 4280 modifies the current statutory allocation formula for the CTIF program and the bill adds additional program requirements for eligible county grant recipients. HB 4280 modifies the statutory allocation formula for the CTIF program by adding the vertical well completion ratio as a factor in the program allocation formula and adjusting the percentages of the other factors to establish the following revised allocation formula for distributing grant funds among eligible counties:

- 10 percent - weight tolerance permits ratio;
- 20 percent - oil and gas production taxes ratio;
- 45 percent - horizontal well completion ratio;
- 10 percent - volume of oil and gas waste injected ratio; and
- 15 percent - vertical well completion ratio.

Additional changes made to the CTIF program in HB 4280 require a county that enters into a contract for a transportation infrastructure project that involves construction or maintenance of roads funded by a grant to: (1) advertise for bids for the contract; (2) receive competitive bids for the contract, publicly open the bids, and read aloud the names of the bidders and their bids; and (3) award the contract to the lowest responsible bidder.

The changes to the CTIF program made by HB 4280, and the current CTIF program requirements will require several steps over the next several months before TxDOT is able to award grants under the program. TxDOT is currently working on draft administrative rules and estimates that the Texas Transportation Commission (Commission) could adopt the rules in early calendar year 2020. At the end of this state fiscal year, which is over on August 31, 2019, TxDOT will work with the Texas Comptroller of Public Accounts, the Texas Railroad Commission, and the Texas Department of Motor Vehicles to obtain the required data to calculate the statutorily required allocation of CTIF grant funds with the updated formula requirements.
TxDOT anticipates that in the first quarter of calendar year 2020 CTIF grant applications and preliminary grant amounts will be provided to eligible counties. The preliminary grant amount may increase depending on the participation by counties that submit applications. Once the grant awards are finalized, counties will need to execute a CTIF Grant Agreement with TxDOT before receiving any grant funds. TxDOT's goal is to implement the program in the most efficient and practical way possible for Texas counties. In this effort to make the program and the awarding of grants as seamless and efficient as possible, the timeline and procedures will be very similar to the last CTIF program call TxDOT made in 2014.

Please note, as was the case in 2014, TxDOT emphasizes that any expenditures made by a county prior to a grant award will not be eligible for reimbursement under the CTIF program by TxDOT or be used to satisfy a part of a county's statutorily required matching funds. The matching fund requirement for this program is either 20 or 10 percent depending on a county's designation as an economically disadvantaged county. The Commission will adopt the 2020 economically disadvantaged county list this Fall.

Also, as you may be aware, Chairman Garnet Coleman of the House County Affairs Committee submitted an Attorney General opinion request (RQ-0295-KP) on July 18, 2019, regarding the continued use of the previous formula from the first CTIF program in 2014. Unless an intervening Attorney General Opinion suggests otherwise, it is TxDOT's intention to go forward with the stated timeline above and have a single grant call and award all $250 million at one time.

The TxDOT website for this program https://www.txdot.gov/government/funding/county-fund.html will be updated in the months ahead with important information as it becomes available. We look forward to working with you on this program.

Sincerely,

James M. Bass
Executive Director

cc: Bill Hale P.E., Chief Engineer, TxDOT
    Brian R. Barth P.E., Project Planning and Development, TxDOT
    Trent W, Thomas, State Legislative Affairs, TxDOT
    John C. Jameson, Transportation Programs Division, TxDOT