



Brownsville Independent School District

Agenda Category: General Function Board of Education Meeting: 06/16/2026

Item Title: Ratification of Refund to the Texas Education Agency (TEA) Related to ESSER I Grant Non-Compliance Determination X Action Information Discussion

BACKGROUND:

On May 14, 2026, the Texas Education Agency (TEA) issued a formal notification to the district requiring the refund of grant funds associated with the ESSER I Grant Non-Compliance Audit. The notification directed the district to remit a refund in the amount of \$573,571.74 and provided a compliance deadline of **five (5) calendar days** from the date of the notice.

Due to the limited timeframe established by TEA and to ensure compliance with state requirements, Administration authorized the refund of \$573,571.74 on May 19, 2026, within the required deadline. Failure to remit the refund within the prescribed timeframe could have resulted in additional state enforcement actions, penalties, or other adverse financial consequences for the district. This refund was a non-discretionary repayment obligation mandated by TEA and was not the result of a procurement, contract award, purchase or goods, or acquisition of services. Accordingly, the refund does not constitute a purchase subject to competitive procurement requirements and is not in violation of any applicable federal or state law, Board policy, or local purchasing procedures. (Cont.)

FISCAL IMPLICATIONS:

Local Maintenance Fund 199: \$573,571.74

RECOMMENDATION:

Recommend approval of the ratification of the refund in the amount of \$573,571.74, remitted on May 19, 2026, in compliance with the Texas Education Agency’s refund notice dated May 14, 2026, resulting from the ESSER I Grant Audit. The refund represents a required reimbursement of federal funds previously advanced to the District and is not a discretionary expenditure or payment for goods or services.

Rosario Peña, RTSBA 

Submitted by: Principal/Program Director

Approved for Submission to Board of Education:

Recommended by: Asst. Supt./Exec. Dir.

Rosario Peña, RTSBA 

Approved by: Chief Officer


Dr. Alda T. Benavides, Interim Superintendent



Brownsville Independent School District

Item Title: Ratification of Refund to the Texas
Education Agency (TEA) Related to ESSER I
Grant Non-Compliance Determination

BACKGROUND (continued)

The refund was made in the best interest of the district to satisfy the state-mandated refund requirement and maintain compliance with TEA directives. As the refund was required before the next regularly scheduled Board meeting, Administration is requesting Board ratification of the action taken.

On June 5, 2026, District administration participated in a Zoom conference with Ms. Cal Lopez, Federal Compliance Officer with the Texas Education Agency (TEA), Department of Grant Compliance and Administration, Federal Compliance Unit and Ms. Susan Hicks, Grant Compliance Lead Analyst, Department of Grant Compliance and Administration. Attendees included Dr. Nellie Cantu, Chief Operations Officer; Mr. Marco Porras, Director of Internal Audits; Mr. Jose Garcia, Support Programs Coordinator; Ms. Lyzeth Alaffa, CPA, Finance Director/Business Manager; and Ms. Rosario Peña, Chief Financial Officer.

During the meeting, Ms. Lopez reiterated that the district's options for appeal and submission of additional supporting documentation had expired on May 22, 2024, as outlined in TEA's correspondence dated April 22, 2024. Consequently, TEA determined that no further administrative remedies were available, and the district is required to remit the amount identified in the non-compliance determination.

Ms. Lopez further clarified that the required remittance is not considered a discretionary payment for goods or services, but rather a refund of federal funds previously advanced to the district. The refund is required because certain payroll expenditures charged to the grant were subsequently determined by TEA to be non-compliant with applicable federal grant requirements.

Rosario Pena

From: Lopez, Cal <Cal.Lopez@tea.texas.gov>
Sent: Thursday, May 14, 2026 11:44 AM
To: Dr. Alda T. Benavides
Cc: Rosario Pena; Hicks, Susan; Newby, Djuna; NonCompResolution
Subject: Brownsville ISD Non-Compliance Resolution | ESSER Refund and Documentation Due (NCR-ESSER-FY23-05)
Attachments: Brownsville ISD_ESSER I_Letter_04.22.24.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of Brownsville ISD. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Dr. Benavides,

Our records indicate that we have not yet received the **2020-2021 ESSER Grant Non-Compliance Resolution** refund of **\$573,571.74** and documentation due to TEA, and your organization is currently out of compliance.

The initial email was sent on **April 22, 2024**, indicating that your refund and documentation was due on **May 22, 2024**. Attached is the original Non-Compliance letter for your reference. Please provide an update on the documentation status.

Potential Consequences of Failing to Comply

Failure to complete the corrective action within **five calendar days** from the date of this email may result in TEA taking further non-compliance action against your organization. TEA is authorized by **2 CFR §200.339** to take one or more of the following enforcement actions related to federal grants as appropriate:

- Temporarily withhold cash payments pending correction of the deficiency or more severe enforcement action.
- Disallow all or part of the cost of an activity or action not in compliance.
- Wholly or partly suspend or terminate the Federal award.
- Initiate suspension or debarment proceedings.
- Withhold further Federal awards for the project or program.
- Take other remedies that may be legally available.

If you have any questions, please email us at NonCompResolution@tea.texas.gov or contact the Federal Compliance Officer, Cal Lopez directly at 512-463-9017.

Sincerely,
Cal Lopez



Cal Lopez

Federal Compliance Officer
Federal Compliance Unit
Department of Grant Compliance and Administration
512-463-9017
Cal.lopez@tea.texas.gov
tea.texas.gov/finance-and-grants/grants



April 22, 2024

Jesus H. Chavez
Superintendent
Brownsville Independent School District
1900 Price Rd
Brownsville, TX 78521-241

**Transmitted by Electronic Mail
Immediate Action Required**

Subject: ESSER Non-Compliance Resolution (NCR-ESSER-FY23-05)

Dear Dr. Chavez:

The purpose of this letter is to notify you of federal grant requirements imposed on your LEA by federal statute and Education Department General Administrative Regulations (EDGAR) requiring action by the Texas Education Agency (TEA). If you have any questions or concerns regarding the contents, phrasing, or terminology in this letter please reach contact the Federal Compliance Officer at NonCompResolution@tea.texas.gov.

As a result of these requirements, the Department of Grant Compliance and Administration (GCA) at TEA is issuing a non-compliance resolution action on your organization. This non-compliance resolution action requires your organization to return funds to TEA.

Reason for Non-Compliance Resolution Action

This non-compliance resolution action is based upon findings identified by TEA, as part of its federally required subrecipient monitoring functions, in the TEA Final Report - Review of the Financial Management System Controls and Compliance with Requirements for the **2020-2021 Elementary and Secondary School Emergency Relief (ESSER) Grant** on February 14, 2023. These findings are related to a fiscal compliance review conducted by TEA's Special Monitoring Division (SMD). The final report indicated that your organization did not comply with federal requirements under EDGAR. The specific findings have been outlined in your previously received TEA Final Report of Findings and Observations for Brownsville Independent School District .

The findings identified by TEA, which includes questioned costs, illustrate the degree that your organization failed to comply with laws, regulations, and grant requirements and to maintain proper internal controls over its federal programs. Therefore, pursuant to [2 CFR §§200.339\(b\)](#), [200.410](#), and [200.345\(a\)\(1\)](#), TEA is requiring the following non-compliance resolution actions from your organization, and as applicable, disallowing the questioned costs described in the following table:

Grant Name	NOGA ID	NOGA Period	Disallowed Costs
Elementary and Secondary Emergency Relief (ESSER) Grant	20521001031901	08/19/20-09/30/22	\$573,571.74

Completing the Non-Compliance Resolution Action

You must complete and submit all required non-compliance resolution actions and documentation described in the table below by the given deadline to TEA at NonCompResolution@tea.texas.gov. TEA will review your documentation and either contact you for more information or send you a non-compliance resolution closure letter and email confirming that you have completed and submitted all the required non-compliance resolution actions and documentation.

Findings	Required Non-Compliance Resolution Action
<p>Finding 1: Brownsville ISD did not demonstrate it adequately maintained effective budgetary control of grant expenditures. More specifically, the district used ESSER grant funds for payroll costs that were incurred and paid during the grant period pre-award period (March 13,2020 through August 19, 2020). However, based on the review of the pre-award budget approved in the grant application, it was determined that the amount charged for payroll costs during these months exceeded the total amount of grant funds approved in the pre-award period under object code 6100. Upon notification, the district stated that they will take corrective actions to reclass pre-award payroll costs out of the ESSER I grant and charge new payroll costs that are inside of the grant period to the ESSER I grant program and forward copies of the journal entries to resolve the questioned costs.</p> <p>Finding 2: In 2 instances, expenditures for positions paid from the federal award were not allowable. Costs were obligated outside of the approved grant period. Brownsville ISD has stated that they will remove these payroll expenditures from the grant to resolve the questioned costs.</p>	<ol style="list-style-type: none"> 1. Submit a refund of the disallowed costs for \$573,571.74 or documentation the payroll expenditures were reclassified. 2. Submit the following Non-Compliance Resolution Documentation for Findings 1 and 2. <ul style="list-style-type: none"> • Provide documentation of the preventative policies, procedures, or strategies to prevent the recurrence of this finding. • Provide the staff member(s) responsible for the communication, training, and implementation of the preventive policies, procedures, or strategies to prevent the recurrence of the findings. • Provide documentation of communication or training provided to the appropriate staff of any new or revised policies and procedures that address the non-compliance resolution findings (e.g., dates of staff communication or training, staff role/department who received these communications or training, location of training(s), copies of the staff communication or training sign-in sheets, etc.).

Response to this Non-Compliance Resolution Action

Your organization has the following immediate options to respond to this letter notifying you of findings requiring non-compliance resolution action, as described below:

1. Submit refund, and
2. Submit required documentation of Non-Compliance Resolution actions to TEA; or
3. Appeal this Non-Compliance Resolution Decision by TEA.

Submitting a Refund

If your organization has identified the disallowed costs above and chooses not to appeal this decision, proceed with submitting the amount of the total disallowed costs to TEA **within thirty calendar** days of the date of this letter. You can submit your refund by wire transfer or mailing in a check.

Refund Wire Option

Contact Cal Lopez, the TEA Federal Compliance Officer, at NonCompResolution@tea.texas.gov or (512) 463-9017.

Refund Check Option

Submit your check made payable to the Texas Education Agency for the total refund amount due. Include the following information on your check:

- NOGA ID
- ESSER Refund
- Refund Code 7 Other: ESSER Non-Compliance

Include your non-compliance resolution letter with your refund check to ensure your payment is posted to the appropriate grant or program.

Mail your refund check and a copy of your non-compliance letter to the address below:

Texas Education Agency—MSC
P. O. Box 13717
Austin, TX 78711-3717

In accordance with [2 CFR §200.339\(a\) and \(e\)](#), TEA may withhold all further cash payments to your organization related to the grant awards listed above and withhold further awards for those programs if the full amount of the refund is not submitted to TEA **within 30 calendar days** of the date of this letter. This refund must be made using **state and/or local funds; federal funds cannot be used.**

Deadline for Appeal

Please be advised that your organization may request a hearing concerning this non-compliance resolution action under the provisions in the Texas Administrative Code (TAC), [19 TAC §157.1083](#). The hearing must be requested within 30 calendar days of the date of this letter and must be requested in accordance with the procedures specified in [19 TAC §157.1083](#). If you request a hearing, your request must specify:

1. The action or proposed action that is the subject of the requested hearing,
2. The statutory or regulatory authority identifying and supporting a finding that a violation occurred by TEA in enforcing this decision, and
3. Specific facts supporting a finding that the action taken by TEA is in error.

Hearing Request by e-filing System

The division of hearings and appeals does accept electronic filing through the [TEA Hearings and Appeals Electronic Filing Portal](#) on our TEA website.

Hearing Request by Mail

The request for hearing must be mailed by certified mail, return receipt requested; transmitted by facsimile to (512) 475-3662; or hand delivered to:

Director of Hearings
Texas Education Agency
1701 N. Congress Ave., Ste. 2-150
Austin, TX 78701-1494

The request for a hearing shall be deemed filed at the time it is received by the director of hearings or the designated docket clerk in the TEA Division of Hearings. The opportunity to request a hearing will be **void thirty-one calendar days** after the date of this letter.

Potential Consequences of Failing to Comply

Failure to complete the non-compliance resolution action *within thirty calendar days from the date of this letter* may **result in** TEA taking further non-compliance resolution actions against your organization. TEA is authorized by [2 CFR §200.339](#) to take one or more of the following non-compliance resolution actions related to federal grants as appropriate:

- Temporarily withhold cash payments pending correction of the deficiency or more severe enforcement action.
- Disallow all or part of the cost of an activity or action not in compliance.
- Wholly or partly suspend or terminate the Federal award.
- Initiate suspension or debarment proceedings.
- Withhold further Federal awards for the project or program.
- Take other remedies that may be legally available.

TEA Non-Compliance Resolution Resources

- For more information visit our Non-Compliance Resolution Process [Non-Compliance Resolution Process](#) webpage.

TEA Contact Information

- For questions regarding the submission of the refund, contact TEAExpenditures@tea.texas.gov.
- For questions related to the content in this letter, contact Cal Lopez, the TEA Federal Compliance Officer, at NonCompResolution@tea.texas.gov or (512) 463-9017.

Sincerely,



Cory Green, Associate Commissioner and Chief Grants Officer
Department of Grant Compliance and Administration

cc: Alejandro Cespedes, Chief Financial Officer
Mary Lou Esparza, Director of Federal Programs
Mike Meyer, Deputy Commissioner of Finance
Matt Lashlee, Executive Director, Federal Compliance and Support
Nick Davis, Chief of Staff for Department of Grant Compliance and Administration



Outlook

FW: Brownsville ISD Non-Compliance Resolution Referral (NCR-ESSER-FY23-05) | Elementary and Secondary Emergency Relief (ESSER) Grant

From Mary D. Garza <mdgarza@bisd.us>**Date** Wed 5/1/2024 10:01 AM**To** Conrado Vega <cvega@bisd.us>; Marco A. Alaniz <maalaniz@bisd.us>

2 attachments (799 KB)

Brownsville ISD_ESSER I_Letter_04.22.24.pdf, Brownsville ISD - Final Report of Findings and Observations.pdf

Please pull out the JEs to reclassify salaries for this grant and other documents pertaining to this grant. Thank.

Mary D. Garza
Director for Finance/Budget
Director for Payroll
Brownsville ISD
1900 E. Price Road, Room 303
Brownsville, TX 78521
Tel: 956 548-8311

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From: Alejandro Cespedes <acespedes2@bisd.us>**Sent:** Monday, April 22, 2024 5:14 PM**To:** Mary D. Garza <mdgarza@bisd.us>**Cc:** Patricia Perez <pperez@bisd.us>**Subject:** FW: Brownsville ISD Non-Compliance Resolution Referral (NCR-ESSER-FY23-05) | Elementary and Secondary Emergency Relief (ESSER) Grant

FYI

Thanks,
Alex Cespedes
Chief Financial Officer
Brownsville ISD
Email: acespedes2@bisd.us

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From: Lopez, Cal <Cal.Lopez@tea.texas.gov>
Sent: Monday, April 22, 2024 1:26 PM
To: Dr. Jesus H. Chavez <jhchavez@bisd.us>
Cc: Alejandro Cespedes <acespedes2@bisd.us>; Maria L. Esparza <mlesparza@bisd.us>; Green, Cory <Cory.Green@tea.texas.gov>; Meyer, Mike <Mike.Meyer@tea.texas.gov>; Lashlee, Matt <Matt.Lashlee@tea.texas.gov>; Davis, Nick <Nick.Davis@tea.texas.gov>; Lopez, Cal <Cal.Lopez@tea.texas.gov>; NonCompResolution <NonCompResolution@tea.texas.gov>
Subject: [EXTERNAL]Brownsville ISD Non-Compliance Resolution Referral (NCR-ESSER-FY23-05) | Elementary and Secondary Emergency Relief (ESSER) Grant

CAUTION: This email originated from outside of Brownsville ISD. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Dr. Chavez,

The Texas Education Agency's (TEA) Special Monitoring Division (SMD) has concluded its monitoring review of Brownsville ISD Elementary and Secondary Emergency Relief (ESSER) Grant.

Your LEA has been referred to the Federal Compliance Officer in the Department of Grant Compliance and Administration to conduct and complete the Non-Compliance Resolution Process.

The attached Non-Compliance Resolution letter outlines the following information:

- Final ESSER Grant report findings and area(s) of non-compliance.
- ESSER Grant refund request based on the identified questioned costs.
- Non-Compliance Resolution required actions and next steps.
- TEA department and divisional contact information

Your response is requested by May 22, 2024.

Let me know if you have any questions or if I can be of any assistance regarding the Non-Compliance Resolution Process.

Sincerely,
Cal Lopez



Cal Lopez

Federal Compliance Officer

Department of Grant Compliance and Administration

512-463-9017

Cal.lopez@tea.texas.gov

tea.texas.gov/finance-and-grants/grants



February 14, 2023

No Response Required
Sent by email
to rene.gutierrez@bisd.us

Rene Gutierrez
Superintendent
Brownsville Independent School District
1900 Price Rd
Brownsville, TX 78521-2417

Subject: Final Report of Findings and Observations

Dear Dr Gutierrez:

Staff from the Special Monitoring Division have completed their final review of Brownsville Independent School District's (BISD) administration of the 2020-2021 Elementary and Secondary School Emergency Relief grant awarded by TEA. The review was conducted through written correspondence and was limited to the records provided by BISD in response to formal correspondence dated May 27, 2021 and November 30, 2021, as well as other informal inquiries.

Your response to the Preliminary Report of Findings and Observations dated October 11, 2022 has been reviewed and a summary has been incorporated into the body of this Final Report of Findings and Observations, as deemed appropriate.

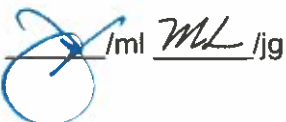
TEA considers this review closed. However, the records submitted by your organization remain subject to review by appropriate federal or state oversight entities. You will be notified in the event a follow up to the review is scheduled.

We appreciate your cooperation during the conduct of our review. Should you have any questions, please contact me at 512-463-9707.

Sincerely,

Noah Rademacher

Noah Rademacher, Senior Auditor
Special Monitoring Division

 /ml ML /jg

cc: Cory Green, Associate Commissioner, Department of Grant Compliance and Administration, TEA
Matt Lashlee, Senior Director, Special Monitoring Division, TEA
Jose De La Garza, Manager, Special Monitoring Division, TEA
Michael Loya, Manager, Special Monitoring Division, TEA
Mary Garza, Director of Finance/Budget, mdgarza@bisd.us
Nereida Cantu, Deputy Superintendent for Business & Operations, drncantu@bisd.us

Enclosure (1)

Department of Grant Compliance and Administration
Special Monitoring Division



Brownsville Independent School District
CDN: 031-901

February 2023

Final Report

Review of the Financial Management
System Controls, Compliance with
Requirements for 2020-2021
Elementary and Secondary School
Emergency Relief Grant

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Acronyms

APM Administrative Procedures Manual

CAP Corrective Action Plan

CDN County District Number

CFR Code of Federal Regulations

EDGAR Education Department General Administration Regulations

ESSER Elementary and Secondary School Emergency Relief

FASRG Financial Accountability System Resource Guide

SMD Special Monitoring Division

FMS Financial Management System

FY Fiscal Year

NOGA Notice of Grant Award

TEA Texas Education Agency

BISD Brownsville Independent School District

Section 1 - Summary of Findings and Observations

General Conclusion

It was observed that certain fiscal controls were not adequately implemented by Brownsville Independent School District to ensure proper administration of the grant and to facilitate compliance with applicable standards and criteria.

Description and Criteria	Finding Number
Financial Management System and Accounting Records:	
1. The financial management system must identify all federal awards received and the associated federal programs. 2 CFR 200.302(b)(1)	None
2. The financial management system must provide accurate, current, and complete disclosure of the financial results of each federal award or program meeting all applicable reporting requirements. 2 CFR 200.302(b)(2)	None
3. The accounting records must identify the source and application of funds used for federal activities and contain information pertaining to federal awards, authorizations, obligations, unobligated balances, assets, expenditures, and income and interest. 2 CFR 200.302(b)(3)	None
4. Fiscal controls and fund accounting must be used to ensure proper disbursement and accounting of federal funds. 34 CFR 76.702	None
5. Records must be kept to fully show the amount of the award, expenditures, total project costs, costs paid from other sources, and other records needed to complete an audit and demonstrate compliance with program requirements. 34 CFR 76.730-731	None
Internal Controls:	
1. There are effective controls over and accountability for, all funds, property, and other assets. 2 CFR 200.302(b)(4)	None
2. A system of internal controls has been established, implemented, and maintained to provide reasonable assurance management of the federal award is in compliance with federal statutes, regulations and the terms and conditions of the grant, and must be supported by source documentation. 2 CFR 200.303	None
Budgetary Controls:	
1. Records must provide for a comparison of expenditures with budgeted amounts. 2 CFR 200.302(b)(5)	None
2. Deviations from the budget, project scope, or objective must be reported and budget and program revisions must be requested and have prior approval from the awarding agency. 2 CFR 200.308(b)	Finding 1

Description and Criteria	Finding Number
Cash Management:	
1. Written procedures are required to implement the federal requirements for payments. 2 CFR 200.302(b)(6)	None
2. Payment methods must minimize the time elapsing between the transfer of funds from TEA and the disbursement by the organization. 2 CFR 200.305(b)	None
Allowability of Costs:	
1. Allowable costs are those that are necessary, reasonable, and allocable for the performance of the federal award. Policies and procedures for allowable costs must be applied consistently and uniformly to both federally-financed and other activities. Additionally, certain costs require the approval of TEA. 2 CFR 200 Subpart E	None
2. Written procedures are required for determining the allowability of costs in accordance with 2 CFR 200, Subpart E—Cost Principles. 2 CFR 200.302(b)(7)	None
3. Adequate documentation is required for costs to be allowable. Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. 2 CFR 200.403(g) and 2 CFR 200.430(i)	None
Period of Performance and Obligation of Funds:	
1. Only allowable costs may be charged to the grant during the period of performance. Any cost prior to the award period must be authorized by TEA. 2 CFR 200.309	Finding 2
2. Federal requirements must be followed to determine when obligations of funds are made and obligation of funds during a carryover period. 34 CFR 76.707-710	None
Procurement Standards:	
1. Federal regulations require compliance with procurement standards. Local procurement procedures must be developed and implemented to reflect and conform to applicable local, state, and federal laws, regulations, and standards. 2 CFR 200.318-326	Finding 3
2. Federal suspension and debarment requirements must be followed and adhered to as part of the procurement process. 2 CFR 200.213	None
Inventory Controls	
1. Federal regulations require compliance with property management standards. Local procurement procedures must be developed and implemented to reflect and conform to applicable local, state, and federal laws, regulations, and standards. 2 CFR 200.313	None

ESSER - Grant Specific Requirements	
1. There was compliance with the reservation of ESSER funds for services to eligible private school students in accordance with the amounts identified in Section 5 of the 2020-2021 Elementary and Secondary School Emergency Relief (ESSER) Grant Application, as amended. Assistance to Non-public Schools- Section 18005(b) of the CARES Act	None
2. Private School Participation-Assistance to Non-public Schools. Provide equitable services in the same manner as provided under section 1117 of the ESEA of 1965 to students and teachers in non-public schools, as determined in consultation with representatives of non-public schools To the extent consistent with the number of eligible students enrolled in private schools in the area, the organization shall provide, on an equitable basis, special educational services or other benefits that address their needs under the Title I, Part A grant program, to eligible students enrolled in private schools. Section 18005 of the CARES Act and ESSA P.L. 114-95 Section 1117	None

Total Questioned Costs

\$573,571.74

Recommendation to Brownsville Independent School District

Please review this report carefully and take appropriate corrective actions to address the observations, recommendations, and required actions. We will examine your response to ensure that it adequately addressed the findings and questioned costs related to the findings, if applicable.

Brownsville Independent School District's Response

BISD provided a response to TEA staff's Preliminary Report of Findings and Observations dated October 11, 2022. BISD concurred with findings 1 and 2 in the preliminary report and provided supporting documentation outlining the corrective actions that were taken to resolve the findings. For finding 3, BISD provided additional documentation and an explanation around their procurement process which has resolved the finding. (Refer to attachments A & B).

TEA Addendum

TEA has examined BISD's response, and we concur with the implemented corrective action plan that addresses the findings. However, additional documentation was required for the reclassified costs for findings 1 and 2. This documentation was not provided and has resulted in the questioned costs for finding 1 and 2 not being adequately resolved. As a result, staff will recommend an enforcement action to follow up on pending corrective actions resulting from this review.

Section 2 – Findings

Budgetary Controls

Finding Type: Compliance/Internal Control

Questioned Cost: \$473,432.50

Criteria: 2 CFR 200.302(b)(5), 2 CFR 200.308(b)

Criteria Description: Federal grant regulations require the financial management system to be able to compare expenditures with budgeted amounts for each federal award. Deviations from the approved budget are required to be reported and prior approvals must be sought for budget revisions.

Condition: We noted the following issues after testing budgetary controls. Questioned costs, if any, are listed after each issue.

Finding 1

BISD did not demonstrate it adequately maintained effective budgetary control of grant expenditures. More specifically, the district used ESSER grant funds for payroll costs that were incurred and paid during the grant period pre-award period (March 13, 2020 through August 19, 2020). However, based on the review of the pre-award budget approved in the grant application, it was determined that the amount charged for payroll costs during these months exceeded the total amount of grant funds approved in the pre-award period under object code 6100.

Pre-Award Budget vs. Actual Costs Incurred			
Class Object Code	Pre-Award Budget	Actual Pre-Award Costs	Unapproved Pre-Award Amount
6100-Payroll	\$13,026,660.00	\$13,500,092.50	\$473,432.50

Upon notification, the district stated that they will take corrective actions to reclass pre-award payroll costs out of the ESSER I grant and charge new payroll costs that are inside of the grant period to the ESSER I grant program and forward copies of the journal entries to resolve the questioned costs. (\$473,432.50)

Recommendation: We recommend BISD strengthen its budgetary controls to ensure its financial management system is able to compare expenditures with budget amounts and identify budget deviations which need to be reported.

Required Action: Please provide a response with a corrective action plan and any additional supporting documentation to address the findings. In order to adequately address the questioned costs for this finding, BISD will need to provide financial records to demonstrate the questioned costs are replaced with additional expenditures as was communicated to TEA auditors prior to issuing this report. BISD must submit documentation such as an itemized list of expenditures, or a detailed general ledger with entries, to support the expenditures replacing the amount of questioned costs and providing source documentation to demonstrate the eligibility of such costs.

If supporting documentation is not provided to adequately address the finding, along with a corrective action plan, or the costs are not replaced with other eligible costs in the manner described, the questioned costs will be included in the final report. This will result in an enforcement action, which may require the questioned costs to be returned to TEA.

BISD Response: BISD concurred with Finding 1 and provided documentation showing the reclassification of costs. However, proper documentation was not provided to demonstrate that the reclassified costs were allowable. For BISD's written response refer to Attachment B: Organization's Response to Finding 1.

TEA Addendum: We have examined BISD's response including the additional documentation provided to support that unallowable pre-award costs were removed from the total amount charged to the grant and submitted documentation that showed it had replaced pre-award expenses with new costs that were inside of the grant period to address the original questioned costs that were identified in this finding. However, upon request, BISD did not provide proper documentation to demonstrate that the replacement costs were allowable. As a result, staff will recommend an enforcement action to follow up on pending corrective actions resulting from this finding.

Finding Status: Referred to Enforcement

Payroll Allowability-Period of Performance

Finding Type: Compliance/Internal Control

Questioned Cost: \$100,139.24

Criteria: 2 CFR 200 Subpart E, 2 CFR 200.302(b)(7)

Criteria Description: Federal grant regulations require expenditures to be necessary, reasonable, and allocable. Policies and procedures must be in place to determine the allowability of costs and alignment to federal standards.

Condition: We tested 15 payroll transactions and noted the following issues. Questioned costs, if any, are listed after each issue.

Finding 2 In 2 instances, expenditures for positions paid from the federal award were not allowable. Costs were obligated outside of the approved grant period. BISD has stated that they will remove these payroll expenditures from the grant to resolve the questioned costs. (\$0.00) ([Refer to Table II, TN12-13 in Appendix II](#))

Recommendation: It is recommended BISD strengthen its internal controls to ensure expenditures are adequately supported with appropriate documentation.

Required Action: Please provide a response with a corrective action plan and any additional supporting documentation to address the finding.

In order to adequately address the questioned costs identified, BISD will need to replace the disallowed costs with other allowable costs or refund the amount being questioned.

If the questioned costs are replaced with additional expenditures, BISD must submit documentation such as an itemized list of expenditures, or a detailed general ledger with entries, to support the expenditures replacing the amount of questioned costs and providing source documentation to demonstrate the eligibility of such costs.

If supporting documentation is not provided to demonstrate the district has adequately addressed the finding, along with a corrective action plan, or the costs are not replaced with other eligible costs in the manner described, the questioned costs will be included in the final report. This will result in an enforcement action, which may require the questioned costs to be returned to TEA.

BISD Response: BISD concurred with Finding 2 and provided documentation showing the reclassification of payroll costs and a corrective action plan indicating that it would update their policies and procedures. For BISD's written response refer to Attachment B: Organization's Response to Finding 2.

TEA Addendum: BISD has reclassified the questioned costs out of ESSER I and reclassified payroll within the grant period. TEA requested supporting documentation to test the eligibility of the costs that were reclassified into the ESSER grant but support was not provided. As a result, staff will recommend an enforcement action to follow up on pending corrective actions resulting from this finding.

Finding Status: Referred to Enforcement.

Procurement

Finding Type: Compliance/Internal Control

Questioned Cost: \$0.00¹

Criteria: 2 CFR 200.318-326

Criteria Description: Federal grant regulations require sufficient documentation be maintained to demonstrate compliance with the method of procurement used to purchase goods and services. Competitive bids are required for contracts exceeding \$50,000.

Finding 3 **Condition:** We noted the following issues after testing the controls for the procurement process. Questioned costs, if any, are listed after each issue.

In 3 instances, BISD indicated goods or services were procured using competitive bidding procedures. However, adequate documentation was not provided to demonstrate that BISD scored and ranked vendors prior to awarding a contract to the lowest responsive and responsible bidder in accordance with 2 CFR 200.320(b)(1)(ii)(D).

a. In two instances, BISD provided documentation to demonstrate it carried out an invitation for a request for proposal (RFP#20-050) for curriculum and instruction supplies materials, and software district-wide and a copy of the board minutes recommending multiple vendors (almost 200) to support that the contracts were awarded but did not provide the scoring data for each vendor that submitted bids. BISD provided documentation that shows multiple contracts were awarded with no documentary evidence to show that vendors were scored and ranked before the vendors were recommended for contracts. Instead, based on review of the supporting documentation provided it appears that all vendors that submitted a bid proposal were selected and awarded a contract for goods or services.

In addition, a note on an internal memorandum, dated July 14, 2020, for this RFP20-050, recommending the vendors for contracts under this procurement indicates that all vendors that submit a sole source affidavit are automatically selected. A total of 11 vendors were recommended based on affidavits that were submitted. However, a sole source affidavit is not considered as one of the allowable circumstances to demonstrate compliance with federal standards for using formal competitive or noncompetitive procurement procedures as stipulated in 2 CFR 200.320. (\$0.00) ([Refer to Table III, TN17 and TN19 in Appendix II](#))

b. In another internal memorandum dated July 16, 2019, related to RFP #20-001, shows that the district included a stipulation requiring that purchases for this RFP will be acquired by "walk-in only" which may constitute unduly restricting competition for this procurement. The memorandum indicates that eight vendors were disqualified based on this criterion. (\$0.00) ([Refer to Table III, TN22 in](#)

¹ Questioned costs revised from \$38,471.00 to \$0.00

Appendix II)

As a result, BISD did not demonstrate that it complied with federal procurement requirements and cannot ensure it received the best possible price for the purchased goods/services. Therefore, the associated costs are questioned. (\$0.00)

Recommendation: We recommend the BISD strengthen its internal controls to ensure all purchases meet federal procurement requirements and retain documentation to demonstrate compliance.

Required Action: Please provide a response with a corrective action plan and any additional supporting documentation to address the finding.

BISD must provide additional documentation to adequately address the finding or submit replacement costs for the transactions identified in this finding or refund the total amount of questioned costs.

If the questioned costs are replaced with additional expenditures, BISD must submit documentation such as an itemized list of expenditures, or a detailed general ledger with entries, to support the expenditures replacing the amount of questioned costs and providing source documentation to demonstrate the eligibility of such costs.

If supporting documentation is not provided to demonstrate the district has adequately addressed the finding, along with a corrective action plan, or the costs are not replaced with other eligible costs in the manner described, the questioned costs will be included in the final report. This will result in an enforcement action, which may require the questioned costs to be returned to TEA.

BISD Response: BISD did not concur with Finding 3a and provided additional documentation to support their disagreement. BISD concurred with Finding 3b and provided an explanation to support the procurement procedures used. For BISD's response, refer to Attachment B: Organization's Response to Finding 3.

TEA Addendum: We examined BISD's response including the explanation for their disagreement and concur that the additional documentation provided to demonstrate the procurements were carried during a time of public exigency therefore adequately addressing Finding 3a. TEA also examined the response to Finding 3b and concur with BISD's proposed corrective action plan. As a result, the questioned costs will be removed, however, future similar instance of noncompliance may result in questioned costs. This finding is considered closed.

Finding Status: Closed

Section 3 – Observations

We have issued the following observations to BISD. An observation is a deficiency or a minor oversight from an otherwise well implemented process. These items are included as an action item list in this report for BISD to address; however, a response to the observations and recommendations is not required.

We noted the following observations during testing:

Observation 1 BISD did not demonstrate a method to calculate aggregate costs to determine the appropriate procurement method to comply with applicable procurement requirements.

Recommendation We recommend BISD implement a system for aggregating costs (e.g. using commodity codes) to document and maintain compliance with procurement thresholds based on the procurement method chosen.

Appendix I: Objective, Scope, and Methodology

The objective of the review is to determine compliance with applicable federal statutes and regulations and grant requirements, including the uniform administrative requirements and cost principles for federal awards given in Title 2 of the Code of Federal Regulations (CFR). We focused on the fiscal practices which were developed and implemented to demonstrate compliance with applicable requirements pertaining to the grant noted in Table I below. We did not examine every facet in the administration of the grant; therefore, our review was limited to the records provided.

The detailed general ledger, payroll journals, expenditure reports, and policies and procedures were examined and an assessment of internal controls over quality of data, budgetary processes, and the use of program funds was completed.

Based upon this review, we made findings and observations regarding BISD's compliance with the standards and criteria given in documents such as the CFR, TEA's Financial Accountability System Resource Guide (FASRG), and with the requirements given in the grant application, as amended.

Table I: Funding and Expenditure Status of Federal Grant Selected for Review

Grant Title	2020-2021 Elementary and Secondary School Emergency Relief		
NOGA ID	20521001031901		
Beginning Date	Ending Date	Amount Awarded	Amount Reimbursed
August 19, 2020	September 30, 2022	\$19,998,459.00	\$19,990,713.79 ²

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² Amount reported to TEA for reimbursement as of February 14, 2023.



Brownsville ISD – Final Report of Findings and Observations

From Rademacher, Noah <Noah.Rademacher@tea.texas.gov>

Date Tue 2/14/2023 4:35 PM

To Dr. Rene Gutierrez <rene.gutierrez@bisd.us>

Cc Green, Cory <Cory.Green@tea.texas.gov>; Lashlee, Matt <Matt.Lashlee@tea.texas.gov>; De La Garza, Jose <Jose.DeLaGarza@tea.texas.gov>; Loya, Michael <Michael.Loya@tea.texas.gov>; Mary D. Garza <mdgarza@bisd.us>; Dr. Nereida Cantu <drncantu@bisd.us>

CAUTION: This email originated from outside of Brownsville ISD. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

Please refer to the secure link below for a copy of our *Final Report of Findings and Observations*. Although the records submitted by your organization remain subject to review by appropriate federal and/or state oversight entities, we consider this review closed.

<https://tea.sharefile.com/d-sd313ac3499a44ba59ea8b1be19143e67>

If you have any questions, I may be contacted via this email address or at the telephone number indicated below.

Respectfully,

Noah Rademacher
Senior Auditor
Federal Fiscal Monitoring Division



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