

TITLE 723. TOBACCO SETTLEMENT ENDOWMENT TRUST FUND
CHAPTER 1. ORGANIZATION AND PROCEDURE

723:1-1-1. Purpose

The rules in this chapter provide the organizational and procedural framework for the Tobacco Settlement Endowment Trust Fund and provide the necessary channels through which the public can gain information about the Tobacco Settlement Endowment Trust Fund and its functions.

723:1-1-2. Definitions

The following words or terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Tobacco Settlement Endowment Trust Fund Act beginning at § 2301 of Title 62 of the Oklahoma Statutes.

"Agency" means the state office established to manage the daily functions associated with the funding of programs under the Act and which houses the executive director and staff appointed by the directors.

"Applicant" means the entity submitting the application.

"Application" means the grant request submitted to the agency together with all required information and attachments.

"Directors" means the seven-member board responsible for directing the income from the endowment trust to fund programs and administrative expenses as provided by the Act.

"Entity" means a private, nonprofit or public body.

"Interested entity" means an entity that has contacted the agency and requested to be notified when requests for proposals are open for submission.

"Endowment Trust" means the account that contains part of any settlement or judgment monies from tobacco companies.

"Investors" means the five-member board responsible for investing endowment trust monies as provided by the Act.

"TSET" means the Tobacco Settlement Endowment Trust, and collectively includes the endowment trust, the investors, the directors and the agency.

723:1-1-3. TSET

(a) The endowment trust was established through a constitutional amendment approved by Oklahoma voters in November 2000 to assure that tobacco settlement funds were used for programs to improve the health and well-being of Oklahomans.

(b) The agency was established in 2002.

(c) The investors meet at least once per quarter at the State Capitol or other location determined by the investors, and all meetings are open to the public.

(d) The directors meet at least once per quarter at the agency or other location determined by the directors, and all meetings are open to the public.

723:1-1-4. Requests for information

(a) Requests for information may be made by e-mail, by telephone, by facsimile, by mail or by personal appearance at the agency.

(b) The Oklahoma Open Records Act beginning at §24A.1 of Title 51 of the Oklahoma Statutes addresses the records that shall be open to any person for inspection, copying or mechanical reproduction. The fee per page for copies and the fee per copied page for a certified copy are

amounts established by the directors and are posted at the agency and with the Oklahoma County Clerk.

(c) Where the request is for materials of which copies are not available and photocopying or reproduction by other means is required, such service shall be provided upon payment of the appropriate fee, which is a reasonable search fee of the hourly rate of the lowest paid agency employee capable of performing the search when records are requested solely for commercial purpose or the request would clearly cause excessive disruption of the agency's essential functions.

723:1-1-5. Applications

(a) All competitive application types and their accompanying instructions, guidelines and requirements are available at the agency and on TSET's website.

(b) The terms of any competitive application shall remain confidential until the application is open for submission.

(c) Competitive application types include, but are not limited to, requests for proposals, unsolicited proposals and conference/training sponsorships.

(1) **Requests for proposals.** Requests for proposals are applications for specific programs initiated by the directors. Announcements of open requests for proposals shall be posted at the agency and on TSET's website at least thirty (30) days prior to the submission deadline. Announcements may also be posted on the Department of Central Services website, websites of other appropriate state bodies and published in news publications. The agency may notify interested entities through a direct mailing, email or facsimile.

(2) **Unsolicited proposals.** Unsolicited proposals are applications for programs initiated by the applicant according to guidelines established by the directors. Unsolicited proposals are accepted for a specified time annually. The period of acceptance shall be posted at the agency and on TSET's website at least ninety (90) days prior to the submission deadline. The agency may notify interested entities through a direct mailing, email, or facsimile.

(3) **Conference/training sponsorships.** Conference/training sponsorships are applications initiated by the applicant according to guidelines established by the directors. Conference/training sponsorship applications are accepted at any time.

(4) **Other competitive processes.** Other competitive processes as may be established by the directors.

723:1-1-6. Petitions for rulemaking

(a) Any person may submit a petition to the agency requesting the promulgation, amendment or repeal of a rule [75:305]. The petition shall:

(1) be in writing;

(2) refer to the statutory section that authorizes the rulemaking action requested;

(3) refer to the statutory section and the rule involved;

(4) state the exact language requested;

(5) state the purpose of the rule sought;

(6) state a fact situation to which the rule sought will apply; and,

(7) list the name and address of the person requesting the rule.

(b) The directors may require any petitioner to provide additional information. A petition is not considered final until all requested information has been submitted. The failure to provide additional information shall be deemed to be a withdrawal of the petition.

(c) The petition shall be deemed to have been denied if rulemaking proceedings have not been initiated within thirty (30) calendar days from receipt of a final petition [75:305].

723:1-1-7. Official decisions

(a) Official decisions in writing. All official decisions of the directors shall be evidenced by written record. Official decisions of the directors shall not be bound or prejudiced by any informal statement or opinion made by the directors or any statement or opinion made by any agency employee.

(b) Official decisions to be taken only in real issues. Official decisions shall only be taken on matters formally pending before the directors for determination, and then only if such matter be an actual issue.

(c) Declaratory rulings.

(1) Any person may file a petition for a declaratory ruling as to the applicability of any official decision or rule [75:307]. The petition shall:

(A) be in writing;

(B) refer to the official decision or rule involved;

(C) state the nature and purpose of the declaratory ruling sought;

(D) state the fact situation with respect to which the declaratory ruling is sought; and,

(E) list the name and address of the person requesting the ruling.

(2) The directors may require any petitioner to provide additional information. A petition is not considered final until all requested information has been submitted. The failure to provide additional information shall be deemed to be a withdrawal of the petition.

(3) Declaratory rulings may be made by and at the discretion of the directors as to the applicability of any official decision or rule. Generally, a declaratory ruling will only be given if it is shown that an actual issue is in contemplation on the hypotheses presented and that unreasonable hardship, loss or delay would result if the matter were not determined in advance.

(4) The declaratory ruling requested or refusal to issue such ruling shall be issued within thirty (30) business days from receipt of the final petition, and shall be subject to review in accordance with the Administrative Procedures Act beginning at §250 of Title 75 of the Oklahoma Statutes [75:307].

(d) Rights not limited. This section shall not be interpreted as limiting the right of the directors to cause matters to become formally pending and to perform any function or duty prescribed by law or rule.

723:1-1-8. Severability

The provisions herein contained are severable and the repeal, amendment or invalidity of any provision hereof shall not serve to repeal or invalidate the remaining provisions of the rules of this chapter.

CHAPTER 10. GRANTS AND PROGRAMS

723:10-1-1. Purpose

The rules in this chapter provide regulations relating to the processes for program funding.

723:10-1-2. Definitions

The following words or terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Tobacco Settlement Endowment Trust Fund Act beginning at § 2301 of Title 62 of the Oklahoma Statutes.

"Agency" means the state office established to manage the daily functions associated with the funding of programs under the Act, which houses the executive director and staff appointed by the directors.

"Applicant" means the entity submitting the application.

"Application" means the grant request submitted to the agency together with all required information and attachments.

"Directors" means the seven-member board responsible for directing the income from the endowment trust to fund programs and administrative expenses as provided by the Act.

"Entity" means a private body, nonprofit organization or public body.

"Endowment Trust" means the account that contains part of any settlement or judgment monies from tobacco companies.

"Grantee" means the entity that is awarded funding for a program by the directors.

"Investors" means the five-member board responsible for investing endowment trust monies as provided by the Act.

"TSET" means the Tobacco Settlement Endowment Trust, and collectively includes the endowment trust, the investors, the directors and the agency.

723:10-1-3. Advisory panels

(a) The directors may establish advisory panels to aid in the development of programs.

(b) Advisory panels may provide recommendations to the directors and agency on program specifications including program structure and activities, submission dates, funding amounts, grant periods, matching funds requirements and other specifications.

(c) Final authority for all program specifications remains with the directors.

723:10-1-4. Proposal review panels

(a) The directors may establish proposal review panels to aid in the assessment of applications.

(b) Proposal review panels may provide recommendations to the directors and agency on application assessments including content, objectives, awarding of grants and other standards.

(c) Final authority for all application assessments remains with the directors.

723:10-1-5. Application process

(a) Any eligible entity may submit an application to the agency. No fee is required to submit an application.

(b) The application shall be completed by an individual employed by or affiliated with the eligible entity and shall include all information and attachments requested.

(c) If an application is not submitted by the designated date and time, it shall be returned without consideration.

(d) Timely applications are reviewed by the agency to determine completeness.

(e) The directors may require any applicant to provide additional information. An application is not considered final until all requested information has been submitted.

(f) An application that is not reviewed for any failure on the part of the applicant shall be deemed to be a withdrawal of the application.

723:10-1-6. Award process

(a) Submission of a final application does not guarantee the award of a grant.

(b) The directors may assign preference to a class of applicants for any application.

(c) At the judgment of the directors, applications may be evaluated by agency employees, content experts, proposal review panels or any combination of employees, experts, or review panels. Evaluation results and recommendations shall be provided to the directors for each application reviewed.

(d) Applications submitted to the agency remain confidential until a decision is made by the directors.

(e) The final decision to award shall be made at the sole discretion of the directors.

(f) All applicants will receive written notification of final award status.

(g) The directors may use the contents of applications in conjunction with reporting duties of the directors.

723:10-1-7. Grants

(a) The mechanism for funding approved applications may be a professional service contract or cooperative agreement between TSET and the grantees.

(b) Grantees shall abide by the terms and conditions of the professional service contract or cooperative agreement.

723:10-1-8. Performance evaluations

(a) Grantees shall be subject to performance evaluations as to their compliance with the terms and conditions of the professional service contract or cooperative agreement and program outcomes.

(1) **Administrative issues.** The agency assesses administrative issues.

(2) **Program content.** The agency may use outside contractors to appraise program content and processes.

(3) **Program outcomes.** At the discretion of the directors, the agency may use outside contractors to measure program outcomes or may allow the grantee to engage an independent, outside contractor to evaluate its performance.

(b) The agency provides performance evaluation results and recommendations to the directors.

723:10-1-9. Grant cancellations or withholding of monies

(a) Written notification of cancellation or withholding of monies will be provided to defaulting grantees.

(b) Grantees shall be given an opportunity to cure the default.

(c) The final decision to cancel the grant shall be made at the sole discretion of the directors.

723:10-1-10. Severability

The provisions herein contained are severable and the repeal, amendment or invalidity of any provision hereof shall not serve to repeal or invalidate the remaining provisions of the rules of this chapter.