

**SILSBEE ECONOMIC  
DEVELOPMENT CORPORATION**

**CLIENT SERVICES  
POLICIES AND PROCEDURES  
MANUAL**

Adopted by the Board of Directors

DATE:

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### **EXHIBITS (follow the manual)**

A. HOUSE BILL 2912 PRIMER

B. EXCERPT FROM 2004 ED HANDBOOK – MANDATORY PERFORMANCE AGREEMENTS

Any questions regarding this Manual should be directed to:

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## **SECTION I – GENERAL INFORMATION**

## *I.A - INTRODUCTION*

The Silsbee Economic Development Corporation (“SEDC” or the “Corporation”), a non-political subdivision of the State and a Texas non-profit corporation, was created August 13, 1994 by a vote of Silsbee citizens as a 4A Corporation in order to improve the infrastructure of the City of Silsbee by which major employers could then be targeted. In 1998, the citizens of Silsbee voted to include community development projects as acceptable expenditures as approved by the Development Corporation Act.

This Policies and Procedures Manual presents an overview of SEDC’s policies as they pertain to the process in seeking SEDC economic incentives or assistance and the compliance monitoring of economic grant incentives or assistance pursuant to the SEDC Performance Agreement (the “Contract”). The procedures are designed to assist owners and managers of developments that have received an allocation of sales tax funds or other incentives to ensure that the developments remain in compliance with the Contract between the SEDC and the grantee. If the development has received a combination of funds from other government entities, owners must follow the most restrictive regulations. In the event of a conflict or inaccuracy, the Contract will control.

For instance, an owner may have received funds under a governmental program in which he agreed to create jobs for low to moderate income citizens. The owner must be sure to satisfy this restriction in addition to the applicable SEDC wage requirements. Employees and officers of SEDC are not liable for any adverse consequences that affect the taxpayer or investor relative to compliance with the Contract. SEDC reserves the right to implement additional policies as needed. New rulings from the State or other changes will be made periodically.

## *I.B – BACKGROUND*

The Texas State Legislature created Economic Development Corporations under the Development Corporation Act of 1979 (the “Act”). The 4B Corporation structure, governed by Section 4B of the Act, began in 1991. The objective of this structure was to give cities a mechanism to create positive economic growth. The Corporation receives its revenues from a one half percent local sales tax allocated by the City for economic development.

### *I.C - COMPLIANCE PERIOD*

The compliance period for any development begins on the first day of the Contract date and ends when the analyzed payback period of benefits to the City and the terms of the contract have been fulfilled. The compliance period may be extended or modified by the Board. Please review Section V for more details. Crucial elements of compliance consist of ensuring that a certain number of jobs, wages, sales, and capital investment are created, following State eligibility guidelines and meeting expectations over a specified time period. The SEDC is available to provide guidance to applicants in maintaining continuous compliance with SEDC guidelines throughout the compliance period.

### *I.D RESPONSIBILITIES OF THE GRANTEE*

It is the grantee's responsibility to complete any project utilizing SEDC funds, to complete periodic compliance reporting forms, and supply required supporting documentation, which is covered in Section IV of this manual, in order to document compliance with the grant terms in the contract.

## **SECTION II – DETERMINING ELIGIBILITY**

### *II.A CLIENT INTERVIEWS*

The grant applicant initially has contact with and interviews with the executive director. The SEDC screens applicants for viability of the project and background of the company requesting assistance. The executive director logs details of the project and the company requesting assistance on the Client Interview Sheet (see Section VII for specific forms)

The director follows up with the client within two weeks of initial contact. The purpose being to remain informed about the project's status and to show interest. This follow-up contact may be conducted by phone or by a letter which should include a business card.

## *II.B SERVING SEDC'S PURPOSES*

The SEDC is an incentive granting entity and a community development organization. The Corporation is organized exclusively for the purpose of benefiting and accomplishing public purposes of the City of Silsbee, Texas, by promoting, assisting and enhancing economic development activities for the City as provided by the Development Corporation Act of 1979, Texas Revised Civil Statutes Annotated Article 5190.6, as amended.

## *II.C APPLICATION PROCESS*

The application is submitted on an approved application form. Cost/Benefit analysis data forms and supporting documents are submitted. If applicant needs additional background instruction or assistance completing the required financial information, referral is made to Lamar University Business Development Office.

Staff reviews the application and cost benefit analysis information for completeness. Cost benefit analysis, along with supporting documentation is reviewed by an outside service for business applicants. Any additional information or explanation of information is requested at this time.

## *II.D SUPPORTING DOCUMENTATION*

Along with the Completed Cost Benefit Analysis Application the applicant will provide the following:

- 1) A history and description of the business including a business plan
- 2) Type and amount of assistance requested
- 3) Total project costs including cost estimates, certified bids, and/or vendor quotes
- 4) Three years' business projections
- 5) Current sales contracts
- 6) Last two years business financial statements and tax returns and/or personal tax returns
- 7) Copy of business structure documents (i.e. articles of incorporation or partnership agreement)
- 8) Copy of business identifying documents (i.e. Sales tax permits, federal employer identification number)

### *II.E Staff Review*

The executive director reviews the completed application, cost benefit analysis report, and supporting data. When the review is completed, the executive director submits the application to the SEDC Board of Directors for consideration.

## **SECTION III – APPROVAL PROCESS**

### *III.A BOARD INTERVIEW(S)*

The SEDC Board of Directors reviews the application, Impact Analysis Committee's, and staff's recommendation during an Executive Session in compliance with Section 551.086 of the Texas Government Code – Deliberation Regarding Economic Development Negotiations. When the Board reconvenes from Executive Session, the board may take action or request additional information. If the grant is not approved on initial or subsequent reviews, application is denied and all information is filed in the terminated/unapproved applications file.

### *III.B PUBLIC HEARING*

For any 4B project, the board calls a public hearing that it is advertised and information is made available to the public. The public may comment on the proposed project. If there is a favorable outcome to the public hearing the Board will meet in session and approve the grant incentive.

If there is not a favorable outcome to the public hearing the board may send the application back to the applicant for amendment and reconsideration with changes to the project that will meet the concerns determined in the public hearing. The board may approve the project despite public dissent. Those opposed may file petition within 60 days of the public hearing to call an election. The election will determine if the project proceeds.

### *III.C BOARD COMMITMENT & CONTRACT*

If the grant is approved, the board will begin the next stage of the grant process – the determination of grant compliance criteria and contract elements. This stage allows the board and grantee to determine what measurement criteria will be required by the grantee and specific submission dates that will be required. In addition, the specific remedies for non-compliance will be determined. When the terms are set and agreed upon by both parties, the grant terms are submitted to the attorney for the construction of the legally binding contract. The grant contract documents are reviewed by the Board and acted upon for final approval. The Board and grantee will usually sign the contract at the next board meeting and the project begins.

### *III.D FUNDING*

Grant funding may begin sixty (60) days after public hearing, board approval, or when the business begins operations, whichever is later. Once the applicant screening and approval portion is completed, the Compliance Phase of the project begins.

## **SECTION IV— DETERMINING COMPLIANCE**

### *IV.A DEFINING COMPLIANCE*

Once a development receives approval for funding from the SEDC, the Contract will be signed by both parties. From the date the contract is signed, the grantee will be required to submit monitoring documentation over a period of time. The payback period will determine the length of the monitoring period. This payback period is derived from analysis of the application originally submitted to the Corporation. The development must satisfy specific compliance rules for the entire payback period.

During the compliance segment of the grant the grantee submits reports and supporting documentation under the terms of the grant agreement. The SEDC documents all compliance categories by the use of a “Monitoring Matrix” and reports the findings to the Board. The “Monitoring Matrix” (See Section VII – Forms) is used to summarize the documentation provided and becomes part of the permanent record of the grant file.

#### *IV.B GLOSSARY OF TERMS*

The contract between the grantee and the Corporation will define all terms to be used in determining compliance.

#### *IV.D THE MONITORING MATRIX*

The monitoring matrix form, provided by the SEDC, will be completed and submitted each reporting period by the grantee. The monitoring form will record a summary of activity during the monitoring period. The elements of the monitoring report are developed from the cost benefit analysis which is included in the contract. The monitoring report will determine whether contract elements were met, exceeded, or fell below expectations. The grantee will provide supporting documentation for each element of the contract as listed below.

##### *EMPLOYMENT & WAGE VERIFICATION*

Employment and wage verification is based on full time positions. The SEDC requires a full list of positions the company will be creating. Sole proprietors will be excluded as they are not considered employees. Supporting documents to be attached to the job certification form will be Quarterly Texas Workforce Commission Reports and Employee Earnings Summary.

##### *TAXABLE SALES VERIFICATION*

The grantee will supply monthly sales tax reports and a direct pay sales detail if applicable. This will be supplied as an attachment to the monitoring matrix form that the grantee will complete.

##### *TAXABLE PERSONAL PROPERTY INVENTORY VERIFICATION*

The grantee will supply period or year end financial statements and tax returns to support the inventory levels required in the contract.

### *PERSONAL PROPERTY TAXED FURNITURE, FIXTURE, & EQUIPMENT VERIFICATION*

The grantee will supply tax returns and the corresponding depreciation schedules to support purchase of furniture, fixtures, and equipment as support for monitoring. The grantee should also provide personal property tax statements from the County annually during the monitoring period.

### *SALES TAXABLE PURCHASE & EXPENSE VERIFICATION*

Grantee will supply a tax return and income statement or a grant expense report worksheet detailing expenditures which are subject to sales tax.

## **SECTION V – COMPLIANCE ISSUES**

### *V.A MONITORING PROCEDURES*

The SEDC Staff will review the monitoring matrix reports provided by the grantee and verify the reports with the supplied documentation for completeness and accuracy at each reporting period. If additional information is needed to confirm totals on the monitoring report, a request will be made to the grantee to supply the necessary documentation. When the monitoring matrix report is completed and verified, the forms and supporting documentation will be made part of the permanent grant file.

The SEDC Staff will then add current monitoring report information to the Monitoring History Form that is a permanent part of the grant file. The History Form information is then added to the monitoring report card for submission to the Board of Directors. This monitoring will keep the staff and board informed of the grantee's progress in meeting contractual requirements. If there are categories where the grantee underperforms, the board will have an opportunity to discuss shortcomings with the grantee on a timely basis.

### *V.B CREDIT FOR EXCEEDING CERTAIN MONITORING REQUIREMENTS*

If the company over performs, the monitoring period is shortened accordingly. The monitoring will be conducted as long as a company is still receiving funding payments from the SEDC regardless of performance.

### *V.C EXTENSION OF MONITORING PERIOD*

If the company underperforms, but is still operating, the SEDC has the right to extend the monitoring period accordingly until the city benefit (payback amount) equals the incentive amount.

### *V.D RECAPTURE OF TAX INCENTIVE*

If the company discontinues operation of the business before the end of the payback period, incentive funds will be requested back and are prorated according to the terms of the contract. If the company defaults due to bankruptcy, the SEDC reserves the right to pursue funds owed.

## **SECTION VI – CLOSING A FILE**

Grant projects are closed by the Board of Directors through board action. They may be closed due to:

- 1) Satisfactory completion of all terms of the agreement;
- 2) Issues of non-compliance to grant agreements;
- 3) Business failure;
- 4) Other reasons, which may be determined necessary by the board, on a case by case basis.

In order to close a file, an agenda item must be added to the next meeting agenda. The grant file will be presented to the board for consideration of closure. Upon reviewing the file, the board may elect to gather more information or to approve closure of the project. Once the grant file is closed, issues pertaining to compliance are terminated. Projects which are still receiving funding from the SEDC may not be closed until funding has ceased. In situations of file closure due to non-compliance, the board may take legal actions it deems necessary outlined under the grant agreement contract and pursuant to recommendations of counsel.

## **SECTION VII – FORMS**

- VI.A CLIENT INTERVIEW SHEET*
- VI.B COST BENEFIT ANALYSIS DATA SHEETS*
- VI.C CHECKLIST FOR SUPPORTING DOCUMENTS*
- VI.D COMPANY PROFILE SHEET*
- VI.E MONITORING PROJECTIONS*
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- VI.K MONITORING COMPLETION FORM*

### **EXHIBITS (follow the manual)**

- 1. STATE ELIGIBILITY REQUIREMENTS*
- 2. EXCERPT FROM 2004 ED HANDBOOK REGARDING PERFORMANCE CONTRACTS*