

CHAPTER 2. GENERAL POLICIES AND PROCEDURES

The Texas State Library and Archives Commission (commission) adopts the repeal of §§2.4, Principles; 2.10, Dual Office Holding; 2.58, Use of Technology; 2.54, Bid Procedures and HUB Program; 2.110, Scope of Subchapter; 2.115, Awarding of Grants; 2.116, Texas Grant Management Standards; 2.117, Grant Review and Award Process; 2.118, Decision Making Process; 2.210, Negotiated Grants; 2.211, Resource Sharing--Interlibrary Loan Grants; 2.212, Technical Assistance Grants; 2.213, System Integrated Negotiated Grants; 2.610, Goals and Purposes; 2.611, Eligible Applicants; 2.612, Criteria for Award; 2.810, Goals and Purposes; 2.811, Definitions; 2.812, Eligible Applicants; 2.813, Eligible Expenses; 2.814, Funding Formula; 2.815, Application Review and Awarding Process; 2.910, Goals and Purposes; 2.911, Eligible Applicants; and 2.912, Criteria for Award. The repeals are adopted without changes to the proposed text as published in the November 24, 2023, issue of the *Texas Register* (48 TexReg 6841). The rules will not be republished.

The repeals were identified as necessary during the commission's recent review of the rules in Chapter 2, General Policies and Procedures, as required by Government Code, §2001.039.

Specifically, the repeal of §2.4, Principles, is appropriate because the rule is outdated and does not implement, interpret, or prescribe law or policy or describe a commission procedure or practice requirement. The repeal of §2.10, Dual Office Holding, is appropriate as this requirement is unnecessary and inappropriate in a commission rule. Dual office holding is prohibited by Texas law, based on the Texas constitutional restriction on holding two civil offices of emolument and common-law incompatibility. The repeal of §2.58, Use of Technology, is appropriate because it does not implement, interpret, or prescribe law or policy or describe a commission procedure or practice requirement.

The repeal of §2.110, Scope of Subchapter, is appropriate because the commission is updating the language for this section. Rather than amend the existing rule, the commission determined it was more efficient to repeal the existing rule and propose a new rule in its place. New §2.110 is published in this same issue of the *Texas Register*.

The repeal of §§2.115, Awarding of Grants; 2.116, Texas Grant Management Standards; 2.117, Grant Review and Award Process; and 2.118, Decision Making Process, is necessary because the commission is reorganizing the rules within Subchapter C (Grant Policies), Division 1 (General Grant Guidelines). The amended and new sections are published in this same issue of the *Texas Register*.

Lastly, the repeal of §§2.210, Negotiated Grants; 2.211, Resource Sharing--Interlibrary Loan Grants; 2.212, Technical Assistance Grants; 2.213, System Integrated Negotiated Grants; 2.610, Goals and Purposes; 2.611, Eligible Applicants; 2.612, Criteria for Award; 2.810, Goals and Purposes; 2.811, Definitions; 2.812, Eligible Applicants; 2.813, Eligible Expenses; 2.814, Funding Formula; 2.815, Application Review and Awarding Process; 2.910, Goals and Purposes; 2.911, Eligible Applicants; and 2.912, Criteria for Award is necessary because each of these sections relate to grant programs the commission no longer administers. Furthermore, the rules are unnecessary, as the commission's general grant rules apply to all of the commission's grant programs and individual rules pertaining to specific grant programs are not necessary, unless required by statute. In this case, none of the specific grant programs described in the repealed sections are required in statute to be adopted by rule.

SUMMARY OF COMMENTS. The commission received comments from one individual on the proposed repeals.

COMMENT. The individual commented that she was surprised to find that §2.4, Principles, was proposed for repeal, noting that the rule appeared to codify upright behavior when discussing access and nondiscrimination. The commenter also noted that aspects of the rule are assurances promised as a requirement of funding from the Library Services Technology Act (LSTA), which, she stated, requires "those things" to be codified through state law. The commenter questioned whether removing the rule would cause problems with funding from the LSTA.

RESPONSE. The commission appreciates the comment. However, as noted in the preamble proposing the repeals, §2.4 does not implement, interpret, or prescribe law or policy or describe a commission procedure or practice requirement. Rather, it restates requirements noted elsewhere in state law, states requirements that are not necessary in agency rule, or describes internal agency management or organization. In addition, the commission provides annual assurances and certifications to the Institute of Museum and Library Services for funding under the LSTA. As such, the commission declines to make a change in response to this comment.

COMMENT. The individual commented that the repeal of §2.10, Dual Office Holding, seemed to be eliminating an important mechanism of enforcement for Article XVI of the Texas Constitution.

RESPONSE. As noted in the preamble proposing the repeals, dual office holding is prohibited by Texas law, based on the Texas constitutional restriction on holding two civil offices of emolument and common-law incompatibility. In some cases, acceptance of a second public office can result in automatic resignation from a person's current public office. Furthermore, any violation of the prohibition on dual office holding would not be a matter of enforcement by the commission but would have to be challenged through a civil action in a district court. As such, the commission declines to make a change in response to this comment.

SUBCHAPTER A. PRINCIPLES AND PROCEDURES OF THE COMMISSION

13 TAC §§2.4, 2.10, 2.54, 2.58

STATUTORY AUTHORITY. The repeals are adopted under Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Government Code, §441.006, General Powers and Duties, which directs the commission to govern the state library.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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