



ECONOMIC DEVELOPMENT CORP.

## **Business Improvement Grant Program Guidelines and Criteria**

### **Section 1. Purpose**

The purpose of this program is to promote the development and expansion of new and existing business enterprises within the City of Tomball, Texas (the “City”), and enhance the economic welfare of the citizens of the City by securing and retaining business enterprises and maintaining a higher level of employment, economic activity, and stability.

### **Section 2. Type and amount of grants**

#### **A. Façade Improvement:**

Exterior front façade enhancements. Improvements may be considered if located on a corner or paralleling an internal public space such as a park, parking lot, pedestrian way, or visible from a public right-of-way.

Improvements to store facade including, but not limited to:

- exterior painting that incorporates a major visual change (Maintenance painting does not apply.);
- significant masonry cleaning and/or restoration;
- addition of awnings (business logo & letters on awnings are acceptable);
- enhanced exterior building lighting that creates a noticeably enhanced appearance (Replacement of current lighting that is simply repair does not enhance the appearance of the building, such as replacement of inoperable fixtures and is not included.);
- store front entry systems and individual windows and door replacement or modification (if part of an overall design restoration; general building maintenance repairs are not included);
- new or restored façade elements, such as cornices, soffits, canopies, and other detail elements.

The grant amount may be up to 50% of the cost of such improvement, up to a maximum of \$10,000

#### **B. Sign Improvement:**

New signs and/or major renovations or removal of existing signs. Typically LED Signs are not approved but may be reviewed on a case-by-case basis if integrated into an overall sign.

The grant amount may be up to \$2,500 for an existing business and \$1,000 for a new business.

### C. Property Improvement:

Items such as, but not limited to, parking lot resurfacing, striping, driveway improvement, lighting, decorative fencing, pedestrian oriented/streetscape amenities, including street furniture, new curb and sidewalk, and related amenities, demolition and/or removal of a dilapidated structure

The grant amount may be up to 50% of the cost of such improvement, up to a maximum of \$10,000

### D. Landscaping Improvement:

Material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms, landscape lighting and non-living durable materials that are commonly used in landscaping such as, but not limited to, rocks, pebbles, sand, , but excluding paving. (All living materials will be reviewed at 25% of the cost if irrigation is not present or will be applied)

The grant amount may be up to 50% of the cost of such improvement, up to a maximum of \$10,000

### E. Mega Grant:

A mega grant for up to \$50,000 may be awarded for an improvement project that encompasses a multi-tenant retail, commercial, or service center.

The Project must make a minimum private investment amount of \$100,000 in order to be eligible for the Mega grant bringing the total project investment to at least \$150,000.

Mega grants will be reviewed competitively based upon location, existing property conditions, quality of improvements, and need. Special consideration will be given to projects visible from SH 249/SH 249 Business, FM 2920, or located in the downtown district.

The recipient of a Mega grant award would not be eligible for additional BIG funds at the same project site in the fiscal year the Mega grant was approved.

Application for Mega Grant must be made by the authorized Property Management Company or Property Owner and not on a tenant by tenant basis.

### **Section 3. Eligibility**

- A. All buildings and facilities located within the City at the time of adoption of these guidelines shall be eligible for this program.
- B. Any new business planning to locate within the City, or any business currently located within the city limits, shall be eligible for this program.
- C. A *business* is defined as an occupation, profession, or trade in the purchase or sale of goods or services in an attempt to make a profit.
- D. The proposed project must comply with applicable zoning regulations, city-approved planning studies, comprehensive plan designations, City Ordinances, Building Codes, and Americans with Disabilities Act Guidelines.
- E. Grants may not be used for refinancing existing loans, working capital, inventory, permits, inspections, security fencing or gates, home occupations, roof repair or replacement, interior remodeling, new construction, and routine maintenance of landscaping and signage (with the exception of letters/logos on new awnings).

### **Section 4. Guidelines**

- A. Proof of the applicant's ownership of the subject facility or facilities, or proof that the owner of such facility has approved the application for such grant funds, shall be required.
- B. The owner of a business to be operated within a leased facility, and the owner of such lease facility, must apply jointly for the program. Copies of a lease agreement and proof of ownership of the leased facility shall be required.
- C. A business or property owner may apply for one (1) or more of the four (4) types of grants per physical location (address) set forth herein within any fiscal year (October 1 to September 30). A business that receives grant funding during a fiscal year shall not be precluded from making subsequent applications for funding in following years.
- D. The maximum amount of funding available to any one applicant, business establishment, or property owner at one physical location (address) shall be \$30,000.00 per fiscal year unless applying for the mega grant.

- E. All grants are reimbursement grants and will only be funded after completion of the project in accordance with drawings and specifications approved by the Business Retention and Expansion Committee (BR&E Committee), or by the TEDC Board of Directors and Tomball City Council for MEGA Grants, and after the applicant submits to the TEDC proof of paid receipts for all applicable labor and materials. Digital photographs of the completed work shall also be required.
- F. Reimbursement grants are a cash payment of up to the approved percentage of funds expended by the applicant on the improvements and are not to exceed the limits set forth in Section 2(A), (B), and (C) hereof. In-kind contributions to the improvements by the applicant will not be considered as an expenditure by the applicant. Only cash expenditures by the applicant may be used in calculating the cost of improvements.
- G. The applicant shall be obligated to make the improvements in accordance with the approved application. Thereafter, any modifications must first receive written approval by either the BR&E Committee or the TEDC Executive Director. Failure to obtain such written approval prior to making any such modifications shall render the applicant ineligible to receive grant funding.
- H. The applicant shall be responsible for obtaining all applicable permits related to the improvement project, and failure to do so will render the applicant ineligible to receive grant funding.
- I. The improvements, as presented in the application, must be completed in their entirety. Failure to complete all of the stated improvements shall render the applicant ineligible to receive grant funding.
- J. Upon approval of a grant application, and during the construction of the improvements, a representative or representatives of the TEDC shall have the right, at all reasonable times, to have access to and inspect the work in progress.
- K. The applicant shall not begin any improvements prior to receiving written approval of grant funding from the TEDC.
- L. The applicant must complete the improvement project within nine (9) months of receiving written approval therefore from the TEDC. Failure to complete the improvements within the required time period shall result in the loss of the grant funds allocated for the project. Time extensions may be granted at the discretion of the BR&E Committee.
- M. Approval of all applications shall be with the understanding and agreement that, in the event the business (applicant) fails to remain open, or the business or property is sold or transferred and subsequently closes, within twelve (12) months after the funding of the grant, the applicant shall be considered in default of its obligations under the grant, and shall be required to reimburse the TEDC the grant money received.

- N. The applicant must agree that, in the event of default of its obligations, the applicant shall repay to the TEDC the amount of grant funds it has received, with interest, at the rate of 10% per annum, within thirty (30) days after the TEDC notifies the applicant of the default. The form of such payment shall be a cashier's check or money order, made payable to the Tomball Economic Development Corporation.
- O. The applicant must certify that the applicant does not employ nor will it employ any undocumented workers (an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States). The applicant must agree that if, after receiving grant funds, it is convicted of a violation under 8 U.S.C. Section 1324a(f), the applicant shall repay the amount of the grant funds received by the applicant, with interest, at the rate of 10% per annum, within thirty (30) days after the TEDC notifies the applicant of the violation.
- P. The TEDC shall have the authority to bring a civil action to recover any amounts that the applicant must repay to the TEDC under paragraphs M, N, and O of this Section, and in such action may recover court costs and reasonable attorney's fees.

## **Section 5. Application and Approval**

- A. Applications must be made on a form provided by the TEDC, which form shall be made available at the TEDC offices located at 29201 Quinn Road, Suite A, Tomball, TX 77375 and on the TEDC website at [www.tomballtxedc.org](http://www.tomballtxedc.org).
- B. The grant application must include:
- Request Letter describing proposed project and the need for grant funds
  - Establishment of business entity name (Copy of Article of Incorporation, dba, etc.)
  - Copy of Lease Agreement (if facility is leased)
  - Legal description of subject property
  - Vicinity map of subject property
  - Estimates of proposed improvements. This quote shall be utilized only for the purpose of determining the amount of grant needed for the project and any costs incurred in obtaining the quote shall be the responsibility of the applicant, not the TEDC.
    - Itemized work estimates which include details and information such as color samples of paint, fabric, sign material
  - Digital Picture of Property and the area to be improved

- Notarized Seal on Application
  - Acknowledge that a sign may be placed at your property stating TEDC – Business Improvement Grant Recipient
- C. All applications must be approved by the BR&E Committee which consists of:
- TEDC Executive Director
  - TEDC Assistant Director
  - TEDC Project Manager
  - Representative of the Greater Tomball Area Chamber of Commerce
  - One (1) TEDC Board Member
  - Tomball Councilmember – TEDC Liaison
- D. MEGA Grants will be reviewed by the BR&E Committee and submitted to the TEDC Board of Directors and Tomball City Council for final approval.
- E. An applicant shall be notified, in writing, within (10) ten business days of the BR&E Committee’s decision to approve or disapprove its application.
- F. Grant applications that have met all approval requirements of Section 5 (C & D) may be approved, with certain provisions, conditions, or other requirements that the TEDC deems necessary or appropriate.

**Section 6. Funding**

- A. Upon notification to the TEDC by the applicant that a project has been completed, an inspection by a TEDC representative or representatives shall be made to confirm that such project has been completed in accordance with the application or any approved modifications thereto. Such notification shall include, but not be limited to, documentation of paid receipts for materials, labor, permits, inspection reports, an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the project improvements have been paid and any and all liens and claims regarding such work have been released, or any other item that the TEDC may reasonably deem necessary for determining the project’s completion.
- B. The TEDC agrees to distribute such funds to the applicant within thirty (30) days following the inspection required in paragraph (A) hereof, and confirmation of completion of the project in accordance with the application or any approved modifications thereto. The Executive Director of the TEDC shall issue a letter to the TEDC Board of Directors notifying them of the funding action to be taken. A copy of such letter shall also be provided to the applicant.
- C. Within ten (10) business days following an inspection and the presentation of the receipts as provided in Section 6(A) above, and after a determination is made by the TEDC’s representative that the project has not been completed in accordance with the application, or any approved modifications thereof, the Executive

Director shall issue a letter to the applicant indicating any and all areas of non-compliance.

The applicant shall then have sixty (60) days, from the date of such letter, to make the modifications necessary to bring the project into compliance. Failure to complete such modifications within said sixty-day period shall be deemed a default of applicant's obligations under the grant, and the applicant shall be ineligible to receive grant funding.

- D. Available funding: The TEDC has budgeted \$300,000 per the current fiscal year (October 1 to September 30) to fund this grant program. Grant applications received after the available funding has been exhausted may be accepted and held until the following fiscal year. The TEDC retains sole discretion to accept or reject applications received after the available funding has been exhausted.

#### **Section 7. Miscellaneous**

- A. THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION SHALL DELIVER A COPY OF THESE GUIDELINES TO ANY APPLICANT FOR HIS/HER REVIEW AND THE DELIVERY HEREOF DOES NOT CONSTITUTE AN OFFER OF A BUSINESS IMPROVEMENT GRANT TO THE APPLICANT.
- B. THE LAWS OF THE STATE OF TEXAS SHALL GOVERN THE INTERPRETATION, VALIDITY, PERFORMANCE, AND ENFORCEMENT OF THIS BUSINESS IMPROVEMENT GRANT PROGRAM. IF ANY PROVISION OF THIS BUSINESS IMPROVEMENT GRANT PROGRAM IS HELD TO BE INVALID OR UNENFORCEABLE, THE VALIDITY AND ENFORCEABILITY OF THE REMAINING PROVISIONS SHALL NOT BE AFFECTED THEREBY.

**ACKNOWLEDGMENT OF RECEIPT OF AND AGREE TO COMPLY WITH  
THE GUIDELINES AND CRITERIA FOR BUSINESS IMPROVEMENT GRANT  
PROGRAM BY THE TOMBALL ECONOMIC DEVELOPMENT  
CORPORATION**

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

*Signature:* \_\_\_\_\_

Property Owner/Landlord: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

*Signature:* \_\_\_\_\_

This acknowledgement page must be signed and returned to the Executive Director of Economic Development. Please retain the Guidelines and Criteria for your records.

**Applicants are strongly encouraged to shop locally for products and services.**

**APPLICATION**  
**for**  
**BUSINESS IMPROVEMENT GRANT PROGRAM**

I (We), hereinafter referred to as “APPLICANT”, on behalf of the identified entity, submit to the Tomball Economic Development Corporation, hereinafter referred to as “TEDC”, this application for consideration of a Business Improvement Grant under the provisions of the TEDC’s Business Improvement Grant Program.

As part of this application, APPLICANT represents to TEDC the following:

1. APPLICANT has received a copy of the TEDC’s Guidelines and Criteria for the Business Improvement Grant Program. APPLICANT acknowledges to TEDC that in making this application, APPLICANT understands the terms and provisions thereof, and all questions relating to any needed interpretation thereof have been answered by authorized representatives of TEDC prior to the submission of this application.
2. APPLICANT has secured such legal, accounting, and/or other advice that may be necessary for APPLICANT to determine the desirability of making this application and/or accurately and correctly answering any questions as hereinafter set out. APPLICANT acknowledges that it has completely relied on the advice and counsel of experts and/or appropriate persons retained, employed, or compensated by APPLICANT, and that it has not relied upon, nor is APPLICANT now attempting to rely upon the advice and counsel of TEDC, its servants, agents, employees and/or elected or appointed officers.
3. By signing this document, “Application for Business Improvement Grant” either in an individual capacity, jointly, or in a representative capacity. APPLICANT acknowledges and verifies that all of the facts, information, and allegations as herein set out are true, correct and accurate, and that TEDC may rely thereon as if the same had been signed by APPLICANT or APPLICANT’S agent before a Notary Public or other authorized officer permitted by law to administer oaths and to take acknowledgements. APPLICANT further acknowledges and understands that any materially false or misleading statements of fact may be considered a violation of the criminal laws of the State of Texas.
4. The APPLICANT, whether a corporate entity, partnership, or other legal type business entity, or an individual, acknowledges and verifies that it is current on all current tax obligations, assessments, or other governmental levies and assessments, and that the same have been paid when due and payable, and that no delinquencies exist at this time. The APPLICANT swears and affirms that the APPLICANT is fully authorized to transact business in the State of Texas and in the state of incorporation if different from the State of Texas.

5. The APPLICANT hereby certifies that the APPLICANT does not and will not knowingly employ an undocumented worker. An “undocumented worker” shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States; or (b) authorized under the law to be employed in that manner in the United States. APPLICANT understands and agrees that if, after receiving a Business Improvement Grant, APPLICANT is convicted of a violation under 8 U.S.C. Section 1324a(f), the APPLICANT shall be required to reimburse to the TEDC the grant amount received. Payments must be paid in full within thirty (30) days after the date of written notification by the TEDC. The form of such payment shall be a cashier’s check or money order, made payable to the Tomball Economic Development Corporation. The TEDC has the right to recover court costs and reasonable attorney’s fees as a result of any civil action required to recover such repayment.

Business Entity Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Location in the City of Tomball for which the improvement is being requested

Street Address: \_\_\_\_\_

Home Address: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Other companies and locations owned and/or operated by the APPLICANT

Company Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

6. Please attach a separate document providing a legal description of the property upon which the contemplated improvements will be located as *Exhibit A*.
7. Please attach a vicinity map locating the property within the City of Tomball as *Exhibit B*.
8. Please furnish detailed drawings, plans, specifications, color schemes, or any other available supporting documents for the proposed improvements and cost estimates as *Exhibit C*.
9. Please attach a letter addressing the need for the project as well as need for the TEDC grant funds.
10. Description of proposed improvements:

<b>DESCRIPTION</b>	<b>ESTIMATED REPAIR</b>	<b>ESTIMATED START DATE</b>	<b>COMPLETION DATE</b>

11. New or existing business: \_\_\_\_\_ New \_\_\_\_\_ Existing  
 \_\_\_\_\_ has been in operation for \_\_\_\_\_ years.  
 Existing # of jobs: \_\_\_\_\_ (if applicable) Full-time \_\_\_\_\_ Part-time \_\_\_\_\_  
 New jobs (full-time): \_\_\_\_\_ New jobs (part-time): \_\_\_\_\_
12. If leased facility, provide the following information *(attach copy of current lease)*:  
 Current Landlord: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_
13. Prior to APPLICANT’S execution of this application, APPLICANT has had this reviewed by an Attorney of the APPLICANT, or has had the opportunity to do so, and the parties hereto agree that based on the foregoing, this application for the business improvement grant program shall not be construed in favor of one party over the other based on the drafting of this application.
14. APPLICANT and owner/landlord indemnify, defend, and hold TEDC harmless from any liability, injury, claim, expenses, and attorney’s fees arising out of a contractor, builder, or contract for performance of improvements, or repair to buildings and facilities.
15. TEDC has delivered a copy of the guidelines and criteria for a business improvement grant program to applicant for review, and the delivery hereof does not constitute an offer of an improvement grant.
16. The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of the application for the business improvement grant program. If any provision of this application for business improvement grant program should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this application shall not be affected thereby.
17. Before submitting an application to the TEDC, the APPLICANT must meet with the Development Review Committee (DRC) of the City of Tomball for a review

of the proposed project improvements in order to fulfill Section 3(D) project eligibility requirement in the TEDC “Guidelines and Criteria.” To schedule a meeting with the DRC, contact the Community Development Department at 281-290-1405.

**VERIFICATION**

I (We), the undersigned APPLICANT(S), certify that all the information furnished TEDC has been furnished freely by the APPLICANT(S), herein, and further acknowledge that no rights or privileges may be relied on as a part of any application. In addition, it is acknowledged that the Tomball Economic Development Corporation may or may not grant a Business Improvement Grant based upon application or request hereunder purely as a matter of discretion, and that there is no legal right to rely on any previous actions taken in same or similar applications, or previous actions taken on other applications concerning the same or similar property.

Signed and submitted to Tomball Economic Development Corporation on this, the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

Applicant: \_\_\_\_\_ Applicant: \_\_\_\_\_

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Property Owner/Landlord: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

The State of Texas  
County of Harris

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me and that they executed the same for the purposes therein expressed.

\_\_\_\_\_  
Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

The State of Texas  
County of Harris

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me and that they executed the same for the purposes therein expressed.

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\_\_\_\_\_  
Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

**DOCUMENTATION CHECKLIST**  
**For**  
**Business Improvement Grant Program**

As a part of this application, the following documentation is being provided by the applicant:

- \_\_\_\_\_ Request Letter describing proposed project and the need for grant funds
- \_\_\_\_\_ Establishment of business entity name  
(Copy of Articles of Incorporation, dba, etc.)
- \_\_\_\_\_ Copy of lease agreement (if facility is leased)
- \_\_\_\_\_ Legal description of subject property (Exhibit A)
- \_\_\_\_\_ Vicinity map of subject property (Exhibit B)
- \_\_\_\_\_ Estimates of proposed improvements (Exhibit C)
  - Itemized work estimates which include details and information such as color samples of paint, fabric, sign material
- \_\_\_\_\_ Digital Pictures of Property and area to be improved (Exhibit D)
- \_\_\_\_\_ If submitting your application online:
  - Signature and Notary Seal required once approved
  - Completed W-9 Form



must obtain your correct taxpayer identification number (TIN), which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid).
- Form 1099-DIV (dividends, including those from stocks or mutual funds).
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds).
- Form 1099-NEC (nonemployee compensation).
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers).
- Form 1099-S (proceeds from real estate transactions).
- Form 1099-K (merchant card and third-party network transactions).
- Form 1098 (home mortgage interest), 1098-E (student loan interest), and 1098-T (tuition).
- Form 1099-C (canceled debt).
- Form 1099-A (acquisition or abandonment of secured property).

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

**Caution:** If you don't return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

**By signing the filled-out form**, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued);
2. Certify that you are not subject to backup withholding; or
3. Claim exemption from backup withholding if you are a U.S. exempt payee; and
4. Certify to your non-foreign status for purposes of withholding under chapter 3 or 4 of the Code (if applicable); and
5. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting is correct. See *What Is FATCA Reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding.** Payments made to foreign persons, including certain distributions, allocations of income, or transfers of sales proceeds, may be subject to withholding under chapter 3 or chapter 4 of the Code (sections 1441–1474). Under those rules, if a Form W-9 or other certification of non-foreign status has not been received, a withholding agent, transferee, or partnership (payor) generally applies presumption rules that may require the payor to withhold applicable tax from the recipient, owner, transferor, or partner (payee). See Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

The following persons must provide Form W-9 to the payor for purposes of establishing its non-foreign status.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the disregarded entity.
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the grantor trust.
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust and not the beneficiaries of the trust.

See Pub. 515 for more information on providing a Form W-9 or a certification of non-foreign status to avoid withholding.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person (under Regulations section 1.1441-1(b)(2)(iv) or other applicable section for chapter 3 or 4 purposes), do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515). If you are a qualified foreign pension fund under Regulations section 1.897(l)-1(d), or a partnership that is wholly owned by qualified foreign pension funds, that is treated as a non-foreign person for purposes of section 1445 withholding, do not use Form W-9. Instead, use Form W-8EXP (or other certification of non-foreign status).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a saving clause. Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if their stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first Protocol) and is relying on this exception to claim an exemption from tax on their scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include, but are not limited to, interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third-party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester;
2. You do not certify your TIN when required (see the instructions for Part II for details);
3. The IRS tells the requester that you furnished an incorrect TIN;
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only); or
5. You do not certify to the requester that you are not subject to backup withholding, as described in item 4 under "*By signing the filled-out form*" above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

See also *Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding*, earlier.

## What Is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all U.S. account holders that are specified U.S. persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you are no longer tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

- **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note for ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040 you filed with your application.

- **Sole proprietor.** Enter your individual name as shown on your Form 1040 on line 1. Enter your business, trade, or "doing business as" (DBA) name on line 2.

- **Partnership, C corporation, S corporation, or LLC, other than a disregarded entity.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

- **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. Enter any business, trade, or DBA name on line 2.

- **Disregarded entity.** In general, a business entity that has a single owner, including an LLC, and is not a corporation, is disregarded as an entity separate from its owner (a disregarded entity). See Regulations section 301.7701-2(c)(2). A disregarded entity should check the appropriate box for the tax classification of its owner. Enter the owner's name on line 1. The name of the owner entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For

example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, enter it on line 2.

### Line 3a

Check the appropriate box on line 3a for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3a.

IF the entity/individual on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation.
• Individual or • Sole proprietorship	Individual/sole proprietor.
• LLC classified as a partnership for U.S. federal tax purposes or • LLC that has filed Form 8832 or 2553 electing to be taxed as a corporation	Limited liability company and enter the appropriate tax classification: P = Partnership, C = C corporation, or S = S corporation.
• Partnership	Partnership.
• Trust/estate	Trust/estate.

### Line 3b

Check this box if you are a partnership (including an LLC classified as a partnership for U.S. federal tax purposes), trust, or estate that has any foreign partners, owners, or beneficiaries, and you are providing this form to a partnership, trust, or estate, in which you have an ownership interest. You must check the box on line 3b if you receive a Form W-8 (or documentary evidence) from any partner, owner, or beneficiary establishing foreign status or if you receive a Form W-9 from any partner, owner, or beneficiary that has checked the box on line 3b.

**Note:** A partnership that provides a Form W-9 and checks box 3b may be required to complete Schedules K-2 and K-3 (Form 1065). For more information, see the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

If you are required to complete line 3b but fail to do so, you may not receive the information necessary to file a correct information return with the IRS or furnish a correct payee statement to your partners or beneficiaries. See, for example, sections 6698, 6722, and 6724 for penalties that may apply.

### Line 4 Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third-party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space on line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2).

- 2—The United States or any of its agencies or instrumentalities.
- 3—A state, the District of Columbia, a U.S. commonwealth or territory, or any of their political subdivisions or instrumentalities.
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities.
- 5—A corporation.
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or territory.
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission.
- 8—A real estate investment trust.
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940.
- 10—A common trust fund operated by a bank under section 584(a).
- 11—A financial institution as defined under section 581.
- 12—A middleman known in the investment community as a nominee or custodian.
- 13—A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
• Interest and dividend payments	All exempt payees except for 7.
• Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
• Barter exchange transactions and patronage dividends	Exempt payees 1 through 4.
• Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5. <sup>2</sup>
• Payments made in settlement of payment card or third-party network transactions	Exempt payees 1 through 4.

<sup>1</sup> See Form 1099-MISC, Miscellaneous Information, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) entered on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37).
- B—The United States or any of its agencies or instrumentalities.
- C—A state, the District of Columbia, a U.S. commonwealth or territory, or any of their political subdivisions or instrumentalities.
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i).
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i).

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state.

G—A real estate investment trust.

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940.

I—A common trust fund as defined in section 584(a).

J—A bank as defined in section 581.

K—A broker.

L—A trust exempt from tax under section 664 or described in section 4947(a)(1).

M—A tax-exempt trust under a section 403(b) plan or section 457(g) plan.

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, enter "NEW" at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have, and are not eligible to get, an SSN, your TIN is your IRS ITIN. Enter it in the entry space for the Social security number. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/EIN](http://www.irs.gov/EIN). Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or Form SS-4 mailed to you within 15 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and enter "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, you will generally have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon. See also *Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding*, earlier, for when you may instead be subject to withholding under chapter 3 or 4 of the Code.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third-party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))**	The grantor*

For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing Form 1041 or under the Optional Filing Method 2, requiring Form 1099 (see Regulations section 1.671-4(b)(2)(i)(B))**	The trust

<sup>1</sup>List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup>Circle the minor's name and furnish the minor's SSN.

<sup>3</sup>You must show your individual name on line 1, and enter your business or DBA name, if any, on line 2. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup>List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

\***Note:** The grantor must also provide a Form W-9 to the trustee of the trust.

\*\* For more information on optional filing methods for grantor trusts, see the Instructions for Form 1041.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information, such as your name, SSN, or other identifying information, without your permission to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax return preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity, or a questionable credit report, contact the IRS Identity Theft Hotline at 800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 877-777-4778 or TTY/TDD 800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Go to [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and territories for use in administering their laws. The information may also be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payors must generally withhold a percentage of taxable interest, dividends, and certain other payments to a payee who does not give a TIN to the payor. Certain penalties may also apply for providing false or fraudulent information.