

Events Trust Fund

Guidelines for ETF/MERP/MSRTF

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Office of the Governor – Economic Development and Tourism Office

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What is the Events Trust Fund?

The Legislature transferred the administration of the Events Trust Fund (“Program”) from the Texas Comptroller of Public Accounts (“Comptroller’s Office”) to the Economic Development & Tourism Office (“EDT”) within the Office of the Governor (“OOG”) during the 84th Legislative Session, with an effective date of September 1, 2015.

The Program consists of the Events Trust Fund (ETF), Major Events Reimbursement Program (MERP, formerly the “Major Events Trust Fund”) and Motor Sports Racing Trust Fund (MSRTF). The Program permits local governments and local organizing committees to apply to the State for the establishment of an event trust fund to help pay for certain eligible costs associated with conducting events if all statutory and administrative requirements are met under [Article 5190.14, Section 5A to 5C](#), Vernon’s Texas Civil Statutes.

The fund established for each event consists of amounts deposited by the local and state governments based on the estimated incremental increase in tax receipts that are expected to be generated due to the event, as determined by EDT. In accordance with statute, the estimated increase in tax receipts is limited to amounts collected within a designated market area, and only to amounts collected from five specific tax types: Sales & Use Tax, Hotel Occupancy Tax, Vehicle Rental Tax, Mixed Beverage Tax, and Title 5 Wholesale Alcoholic Beverage Tax (ABC Tax).

For more information, please review the Administrative Rules for the Program. New Administrative Rules are in effect as of January 1, 2017. These rules will affect all applications submitted on or after this date. They can be found at [Texas Administrative Code, Title 10, Part 5, and Chapter 184.1 - 184.51](#).

Eligibility

Am I eligible to apply?

To be eligible to apply for an Events Trust Fund, the Applicant and event must meet the following criteria established by statute.

- ✓ The Applicant is a municipality, city, or a local organizing committee. A local organizing committee (LOC) is a nonprofit corporation that has been authorized by one or more endorsing municipalities or counties to bid on and/or host the event.
- ✓ A site selection organization selected a site in Texas to host the event through a highly competitive selection process after considering one or more locations outside of Texas. The event can be chosen to be held one time or once a year for a period of years.
- ✓ The site selected must be the sole site for the event, or the sole site for the event in a region composed of this state and one or more adjoining states.
- ✓ The event will not be held more than one time in any year.

Should I apply for an ETF, MERP or MSRTF?

Events Trust Fund (ETF) – The event meets all the above eligibility requirements, but is not eligible to apply for a MERP or MSRTF.

Major Events Reimbursement Program (MERP) – Applications are only eligible to apply to MERP if the event meets eligibility requirements and the following:

1. The event and site selection organization are named in statute [Article 5190.14, Section 5A](#), Vernon’s Texas Civil Statutes, and;

2. The amount of the incremental increase in tax receipts determined by EDT equals or exceeds \$1 million.
3. Not later than the 30th day before the first day of the event, a site selection organization must submit a plan to prevent the trafficking of persons in connection with the event to the Office of the Attorney General and the Chief of the Texas Division of Emergency Management. Plans shall be submitted to the following contacts:
 - Captain James T. (Tim) Ferguson – Office of the Attorney General
james.ferguson@oag.texas.gov
 - Suzannah Jones – Texas Division of Emergency Management
suzannah.jones@dps.texas.gov

Motor Sports Racing Trust Fund (MSRTF) – Eligible events are motor sports races conducted at a temporary venue. If you are interested in applying to the MSRTF, please contact EDT before doing so.

**** Texas Motor Speedway** – Events held at the Texas Motor Speedway may be eligible for either the ETF or MERP depending on certain statutory requirements that pertain to that venue. Please contact EDT to discuss an event at this venue before submitting an application. **

Events Trust Fund Timeline

Application is submitted	ETF & MSRTF: No later than 120 days before the first day of the event. MERP: No later than 45 days prior to the first day of the event, but not earlier than 1 year before the event.
Applicant is notified by EDT of the Award Amount	No later than 30 days after a complete application is received.
Event Support Contract is submitted	Before the first day of the event.

Event is Held

Attendance Certification is submitted	No later than 45 days after the last day of the event.
Local Share is submitted	No later than 90 days after the last day of the event. (<u>Local Share cannot be submitted on a weekend or holiday.</u>)
Disbursement Request is submitted	No later than 180 days after the last day of the event.
Disbursement is made by OOG	EDT will process the disbursements in the order they are received. Time for review will vary by event. EDT will contact the Applicant when the payment is being processed.

All deadlines are 11:59 pm CST, with the exception of the local share, which must be submitted by 2:00 pm CST. If the local share deadline falls on a weekend or holiday, the local share must be submitted on the business day prior to the deadline. Early submission for all items is encouraged.

Application Process

To apply to the Events Trust Fund, download the application packet from the Texas Wide Open for Business website - <https://gov.texas.gov/business/page/event-trust-funds-program>

STEP 1: The Applicant must submit the following documents to eventsfund@gov.texas.gov. An incomplete application may not be eligible for processing.

1. **Application** – Completed and signed by someone that has been determined to be eligible to bind the applying entity.
2. **Endorsement Documentation** – Documentation from the endorsing municipality or endorsing county requesting participation in the trust fund program and signed by a person authorized to bind the municipality or county. The documentation should clearly indicate the municipality or county's endorsement of the event and names the LOC (if applicable). The information in the document should coincide with the Selection Letter.
3. **Selection Letter** – A signed letter from the site selection organization selecting the site in Texas that clearly indicates and describes a highly competitive selection process by which site selection occurred, and that the selection was based on an application by the endorsing municipality, county or LOC. This selection letter must clearly indicate the selected LOC (if applicable), the selected municipality or county, and the event date. The event date indicated in the letter must match the requested event date.
4. **Economic Impact Study** or other data sufficient for EDT to make the determination of the estimated incremental increase in tax revenue directly attributable to the preparation or presentation of the event, including data for any related activities. The study should contain detailed information on the direct expenditures for the event in the requested market area relating to the economic activity of attendees and other persons associated with the event. The study may also include information on event expenditures if available. For MERP events only, secondary impacts must be included, and stated separately from the direct impact in order for these impacts to be considered in development of the EDT estimate. TAC Rule § 184.12(4) & 184.22(4).

The data must include the following:

- ✓ An estimate of the total number of attendees for each day of the event
 - ✓ Assumptions used to estimate the number of attendees
 - ✓ An estimate of the number of attendees from out-of-state
 - ✓ Details on spending by event attendees in the five specific tax types: Sales & Use Tax, Hotel Occupancy Tax, Vehicle Rental Tax, Mixed Beverage Tax, and Title 5 ABC
 - ✓ Direct Expenditures related to conduct the event and applicable taxes
 - ✓ Estimated direct impact for the event
 - ✓ Estimated secondary impact for the event (MERP events only)
5. **Affidavit for Economic Impact** signed by the person(s) who prepared the study for the application. The form is available in the application packet.
 6. **Affidavit of Endorsing Entity** signed by each endorsing municipality, county and/or LOC. The form is available in the application packet.

STEP 2: Within 30 days of receiving a completed application, EDT will notify the Applicant via email if the application for the event has met all necessary requirements for the establishment of a fund. If an

application is approved, EDT will include in the notification the maximum amount of the fund, the maximum local share required to participate in the Events Trust Fund, and the attendance metric used to determine the trust fund amount. All determinations regarding the establishment of a trust fund are final.

STEP 3: Applicant must submit an **Event Support Contract** (ESC) and any amendments before the first day of the event. Early submission is encouraged as it will provide EDT with the opportunity to review the contract and address any questions regarding the contract well in advance of the event. EDT staff cannot provide legal advice.

An **Event Support Contract** is a contract by and between a site selection organization and a local organizing committee, an endorsing municipality, or an endorsing county setting out the representations and assurances of the parties with respect to the selection of a site in this state for the location of an event, and the requirements and costs necessary for the preparation or presentation of an event. EDT will reference the Event Support Contract when reviewing a disbursement.

Note: Costs not included in the Event Support Contract will not be approved for reimbursement. EDT will not consider making a disbursement for costs listed under TAC Rule 184.45 Unallowable Costs, regardless of their inclusion in the Event Support Contract.

Event Support Contract must:

- Identify the parties and their respective roles in the planning and presentation of the event
- Establish the Applicant's role and obligations in planning and executing the event
- Include a detailed list of the Applicant's obligations sufficient for EDT to determine allowable and unallowable costs
- Include references to obligations where revenues or compensation are expected to be earned or costs are to be recouped or refunded
- Adhere to the requirements of the administrative rules in Texas Administrative Code, Title 10, §184.4(C)(5), 184.50 and 184.51

The OOG Will Not Consider the Following in an ESC:

- A contingency clause, which relieves the Applicant's obligation to pay a cost under the contract
- A clause that creates or shifts obligations from any parties of the agreement to EDT
- Blanket "catch-all" terms such as "any necessary fixtures"
- References in terms such as "etc.", "miscellaneous", "as needed" or "other"
- Terms that reference EDT's decision making authority, such as "any expense allowed by the Office" or "any expense allowed by statute"

Attendance Verification

The **Attendance Certification** and all supporting documentation must be submitted no later than 45 days after the event. Submit documents to eventsfund@gov.texas.gov.

A Certification not submitted by the deadline or submitted without supporting documentation may be rejected and the event deemed ineligible for disbursement.

EDT will accept or reject the attendance certification within 14 days upon receipt of the certificate and

supporting documentation. In accordance with TAC Rule § 184.30(a)(1), the attendance certification must include total actual attendance at the event and the estimated number of attendees not residents of Texas.

The Attendance Certification form will be sent to the Applicant with the Award Approval letter. A sample of the form can be found in the application packet. EDT can resend the form to the Applicant at their request.

If the actual attendance figures are significantly lower (25% or greater) than the estimated attendance, EDT may reduce the trust fund amount in proportion to the discrepancy. TAC Rule § 184.30(b).

What are acceptable methods for verifying Actual Attendance?

- Ticket sales count
- Turnstile count
- Ticket scan count
- Convention registration check-in count
- Participant totals (must be accompanied by ticket or turnstile count for MERP & MSRTF)
- Another methodology that is approved by EDT at its sole discretion prior to the first day of the event

What are common reasons the Attendance Certification is rejected?

- No supporting documentation was submitted
- The supporting documentation or the attendance methodology is not verifiable
- The methodology submitted is not an approved method
- The Attendance Certification form is not complete

Local Share

The **Local Share** is a contribution to the fund made by or on behalf of an endorsing municipality or county, and may be submitted upon receiving approval of the Attendance Certification by EDT. The Local Share amount is indicated in the Application Approval letter.

Deadline for submission is no later than 90 days after the last day of the event and must be submitted by 2:00 pm CST. The Local Share cannot be submitted on a weekend or holiday. If the deadline falls on a weekend or holiday, the local share must be submitted on the business day prior to the deadline. If you are unsure of your deadline, please contact EDT for verification. The deadline for Local Share is statutorily mandated and cannot be negotiated. If the local share is not received by the deadline, the event will no longer be eligible for a disbursement.

Detailed instructions for submitting the Local Share can be found in the Application Packet on the website. The preferred method for submitting the Local Share is via ACH "Direct Deposit". Instructions for alternative methods of payment are available upon request.

After the local share is received, the state will match the local share by a ratio of 6.25:1. A reduced local share may be submitted, but the state share will not exceed the match ratio. If the local share amount is greater than the established amount, the extra funds will be returned within seven (7) business days.

Who can submit the local share?

- The endorsing city
- The endorsing county
- The Local Organizing Committee
- Another entity as agreed upon by the Applicant and that entity

Note: No matter who submits the local share, any disbursement will only be made to the Applicant.

Disbursement

To receive a disbursement, submit the **Disbursement Request Form** and supporting documentation to eventsfund@gov.texas.gov no later than 180 days after the last day of the event. Requests submitted after the deadline may no longer be eligible for disbursement. If the attachments are too large to send via email, contact EDT to set up a secure electronic transfer. EDT cannot access files sent via Dropbox or another similar service.

Items to be included with the request:

1. A signed Disbursement Request Form available in the application packet on the website. EDT will not disburse an amount greater than stated on the request form.
2. Detailed list of the costs incurred in the Excel format provided by EDT and available in the application packet on the website. Please read and follow the instructions carefully.
3. Copies of any publications, printed materials, signage, or advertising to support any costs relating to those items that are included in the disbursement request.
4. Copies of the invoices, receipts, contracts, proof of payment, and other documents supporting the costs included in the disbursement request.
5. If an Applicant seeks reimbursement for expenses incurred by another entity because of an obligation specified in the Event Support Contract, copies of the invoice(s) sent by the entity to the Applicant for the expenses and proof of the payment to the vendor.
6. If the request is submitted by a Local Organizing Committee, documentation showing the prior approval of the disbursement request by each contributing endorsing entity. Acceptable documentation is a letter in the form determined by the endorsing entity and signed by someone the endorsing has determined is eligible to bind the county or municipality.

Note: Acceptable forms of documentation must show itemized costs that are directly attributable to the event, including the invoice date and the date(s) the goods were delivered or the services performed. Allowable costs attributable to event staff shall include documentation sufficient to support how such costs were calculated and the description of the work performed, dates of service, rate of pay, and number of hours worked per day, and an accounting of any overtime pay, if applicable.

Please review the Administrative Rules for a list of Allowable Costs (§184.44) and Unallowable Costs (§184.45).

EDT will review the Disbursement Request and make a determination of the total reimbursable expenses. EDT may contact the Applicant to provide additional information or explain costs. Applicants will be given 10 business days to respond to requests. Insufficient or slow responses may result in disallowed costs.

After the disbursement has been reviewed and approved by the OOG, EDT will notify the Applicant of the total amount approved for disbursement.

Upon disbursement, any unexpended balance of the local share remaining in the trust fund will be

returned to each endorsing entity in proportion to the local share contributed. Any unexpended state share is returned to the Comptroller of Public Accounts.

The only acceptable method of Disbursement is via ACH “Direct Deposit” (i.e. no check/warrants or wire transfer). To receive a disbursement, the Applicant shall have completed a direct deposit form and filed it with EDT. Contact EDT to receive a copy of the direct deposit form.

Why costs are commonly denied for disbursement:

- The cost was not listed in the Event Support Contract
- The cost was unallowable per the Program Rules.
- The supporting documentation was insufficient, such as an invoice showing lack of relevant details tying the expense directly to the event (e.g. no date of service, no description of services provided, no breakdown of billable hours, etc.).
- The expense is not directly attributable to the event or no evidence was provided.
- The cost was or will be recouped or refunded from another entity or event related revenue relating to the same expense (e.g. printing costs for tickets if a profit was made from ticket sales).
- EDT determines that the expense is unnecessary, fiscally irresponsible, or not supportive of the program objective.
- Sales & Use, Hotel Occupancy or Vehicle Rental Tax is included (tax will be denied).
- A host fee, sanction fee, or any similar fee that is not listed in the application. EDT will not reimburse such a fee exceeding the amount stated in the application. TAC Rule § 184.45(1)(18)

Details on food & travel reimbursements:

- Food is only allowable if:
 - It is directly related to the conduct of the event
 - Provided on-site at the event
 - Provided to event participants or other personnel necessary to the conduct of the event
- EDT will only reimburse food costs up to \$36 per person/per day.
- Supporting documentation for food expenses must show that the food was provided on-site, to whom, and for how many people.
- Food provided for parties, banquets, and pre/post-event meetings are unallowable.
- Travel is only allowable if:
 - The cost is for lodging, automobile mileage, rental car, and commercial airfare
 - It is for an event participant, coach, referee, judge, or other similar person directly related to the conduct of the event, provided that the person does not reside in the event market area
- Reimbursement for travel costs will only be paid up to the following amounts:
 - Lodging and automobile mileage costs up to the allowable rates for state employees, found at: <https://fm.xcpa.texas.gov/fmx/travel/texttravel/rates/current.php>
 - Rental car costs up to the regular published rates for a standard full-size vehicle

- Airfare costs up to the regular published rates for coach-class airfare on a commercial airline
- Supporting documentation for travel expenses must include who the traveler is, their relation to the event (participant, coach, judge), and where they reside.
- Acceptable documentation for reimbursement of mileage includes a travel log and print out of a map showing the distance traveled to the event.

What can I do to help the disbursement be approved faster?

- Proper supporting documentation is supported for all costs
- Respond quickly to requests for additional information from EDT
- All supporting documentation is provided in the same order as listed on the Disbursement Request Worksheet
- Supporting documentation is clearly labeled with the order number it relates to on the Disbursement Request Worksheet
- All images and audio/video files are provided for marketing materials and clearly labeled with the appropriate order number
- Unallowable expenses are not submitted
- Terminology on the Disbursement Worksheet is consistent with the invoice and Event Support Contract (e.g. sanction fee vs. site fee)

FAQs on Confidentiality & the Public Information Act

What is the Public Information Act?

A: The Texas Public Information Act is found at Chapter 552 of the Government Code and governs release of information held by a governmental body, including documents submitted to governmental body by a third party. Information collected, assembled, or maintained by the OOG relating to the Major Events Reimbursement Program and the Events Trust Fund Program is subject to the Public Information Act.

When will I receive notice that a Public Information Request was received?

A: When information related to the event or my company has been requested, and the information has been clearly marked on the front-end as proprietary or confidential.

What do I do when I receive notice?

A: If you want to object to release of the information requested, you must submit comments to the Office of the Attorney General if you wish to object to the release of your company's information on the basis that it is proprietary and/or confidential and should not be released. There will be instructions in the notice letter provided by the OOG. As a general matter, the OOG will not raise a third-party's objections to disclosure on behalf of the Applicant to the Program or any other third-party. You must provide your own legal briefing on any objections directly to the Office of the Attorney General.

Will my information be released without sending me a notification?

A: If your information is not clearly marked as proprietary or confidential, your information is subject to release in accordance with the provisions of the Public Information Act. However, please know that the OOG will redact information that is otherwise confidential under the PIA (ex: bank account and routing numbers, social security numbers, drivers license numbers).

What will the Office of the Attorney General do with the information?

A: The Office of the Attorney General will review the requested information and all comments submitted and issue a ruling ordering the OOG to withhold or release information.

If I lose my arguments, is there any other remedy?

A: Remedies are prescribed in subchapter H of the PIA.

Where can I get answers to other questions about the PIA?

A: The Office of the Attorney General provides a copy of the Public Information Handbook and useful information about the PIA at the following links:

https://texasattorneygeneral.gov/files/og/PIA_handbook_2016.pdf

<https://texasattorneygeneral.gov/faq/og-frequently-asked-questions>

The Attorney General's Open Government Hotline is also available to the public at (877) OPEN-TEX (673-6839) for questions about the PIA.

EDT staff cannot provide legal advice to Applicants regarding compliance with the requirements of the PIA.