Intergovernmental Transfer (IGT) Guidelines
General Principles & Selected Examples

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General Guidance

The following general principles represent an attempt to provide high level guidance to entities seeking to generate state match, (i.e., IGT) for funding the 1115 Medicaid waiver. The principles and examples which follow are not intended to be exhaustive nor do they illustrate all the possible IGT scenarios that could be realized through existing sources of local government funds.

I. Local government funds and state agency funds can be transferred to HHSC to be used as the state share of Uncompensated Care Pool (UCP) and Delivery System Reform Incentive Pool (DSRIP) payments under the Waiver if the funds:
   (1) Are not Federal funds;
   (2) Are appropriated to the state agency (if the transfer is from another state agency); and
   (3) Are not impermissible provider-related donations (see paragraph III below).

II. Such transfers (called "intergovernmental transfers" or "IGTs") can be transferred by any unit of local government (including, but not limited to, a public hospital, hospital district, county, city, or Local Mental Health Authority) or any state agency from any source of funds under its administrative control, provided:
   (1) The transfer meets the conditions specified in paragraph I above;
   (2) The transferred funds are <u>public</u> funds and not private funds;
   (3) No statutory or constitutional provision requires the funds to be used <u>solely</u> for another purpose or prohibit the transfer;
   (4) The transfer satisfies a statutory or constitutional requirement that relates to the funds, including Article III, section 52 of the Texas Constitution or the state General Appropriations Act.

III. Provider-related donations
   (1) A provider-related donation:
      - Is a voluntary donation from a non-governmentally operated health care provider or entity related to a private health care provider—in cash or in kind;
      - Made from a health care provider or an organization that is related to a health care provider;
      - Made to a state agency or local government whether or not that agency or local government furnishes an IGT; and
      - Is directly or indirectly related to a Medicaid payment or other payment to providers.

   (2) Private health care providers cannot make donations directly to HHSC or indirectly through a local government agency to HHSC. However, federal law recognizes that

private providers can undertake to support community activities, and that local government entities may take account of that support in determining to make an IGT that will be used to fund Medicaid payments to those providers.

- A provider's decision to offer time, money or resources to a community project must be completely independent of the local government's decision whether to submit an IGT and the amount of the IGT.
- The public entity's decision to make an IGT of any amount must be independent of the amount of the private provider's community support activity.
- In no event may cash contributions to a transferring government entity be made by or on behalf of a provider.

Examples

Example 1

- Assume a public hospital has $100 in a contract with a physician practice group to staff its hospital.
- The public hospital terminates its contract with the physician practice group and a 501 executes a new contract with the physician practice group to furnish physician services as it has done in the historical UPL program. The 501 pays the physician practice group under its separate contract.
- The physician cost satisfied by the 501 under separate contract does not represent the payment of the public hospital's employees, (e.g., physicians) because the physicians were not employees of the public hospital.
- The public hospital makes an IGT on behalf of the private hospitals composing the 501 in the amount of $60 with the purpose of providing the state match necessary for the private hospitals to draw a federal payment from the UC Pool to offset some/all of their allowable uncompensated care costs.
- The public hospital's costs have been reduced by $40 ($100 - $60), which allows the public hospital to invest this $40 in a system transformation project through the RHP.
- The 501 does not have to be composed of hospitals within the same waiver-defined region as the public hospital.
- This transaction, when viewed in its entirety, can generate a reduction in the public hospital's costs which can create the basis for IGT to be used to fund system transformation projects through the RHP and DSRIP Pool funding.
- The transaction also reduces the uncompensated care costs of the private hospitals, which supports the provision of health care to indigent Texans in the respective region.

Example 2

- A public hospital contracts with a medical laboratory services company to perform lab work for the hospital. The contract with the lab company was awarded pursuant to competitive bidding, has a term of 5 years, and is renewable each August, with notice of either party's intent not to renew due by June 1st of each year.
- The public hospital terminates its contract with the medical laboratory services company and a 501 executes a new contract with the medical laboratory services company to furnish lab work for the hospital.
- The public hospital publishes a request for proposals for new lab services contract in April of the final year of the contract.
- In May, a special purpose entity formed by several private hospitals within the same Regional Health Plan as the public hospital approaches the laboratory services company and offers to fund a

portion of the cost of the lab company's services, which enables the lab company to submit a proposal with a significant discount over the current contract's cost.
- Any business relationships must adhere to the requirements of Principle III(2).

Example 3
- Assume the above example as the base model for the following.
- Because the waiver allows a hospital to be reimbursed for its uncompensated physician care, the public hospital, in this example, doesn't offload its physician contract to the 501. Rather, it retains this cost (i.e., $100), providing a $40 IGT to draw a $60 federal payment from the UC Pool to complete the $100 transaction.
- The public hospital has reduced its costs by $60 ($100 - $40), which allows the hospital to provide, at its discretion, a $30 IGT to fund itself in an RHP project which will earn it $45 in federal funding for a total project value of $75.
- The public hospital could also use the other $30 as an IGT to fund a private hospital(s) DSRIP project that will help to transform the service delivery system.
- The private hospitals funded with the additional $30 IGT would have to be in the same region as the public hospital

Example 4
- A LMHA may have substantial GR funding to provide services to its priority population.
- The LMHA funds a clinic with part of its GR funding. Let's assume there is a $100 GR-funded budget for the clinic and that the operation of the clinic is not currently contracted to a private provider.
- The LMHA chooses to use $50 of this budget as an IGT for matching a DSRIP payment.
- This DSRIP payment would be conditioned by several factors including:
  - The clinic's workload funded by the $100 must be maintained, e.g., creates a baseline for future performance.
  - The LMHA's 4 year RHP which identifies the objectives and measures that define the LMHA's performance.
  - Objectives in the plan for which the LMHA's GR funding is a match must be consistent with the LMHA's statutory obligations (shape 3).

Example 5

An independently-developed project that results in a reduced demand for public resources and helps generate savings for the transferring governmental entity can be considered in making an IGT.

- For example, a group of community organizations that includes local mental health advocates, some private Medicaid providers, and a nearby LMHA form a nonprofit corporation that develops a plan to improve local access to behavioral health and mental health services for persons who might otherwise be incarcerated or committed to a public or private mental health facility.
  - The plan includes the participation of the courts, law enforcement, and city and county government leaders and would result in a diversion of civil and criminal commitments to local residential and outpatient mental health services that would be developed under the plan.
  - The plan is funded by multiple entities, including private hospitals, the LMHA, grants, and other donations.

- The services provided under the plan will be paid for either by public or private payers, including Medicaid, private insurance, or provided pro bono based on a person's ability to pay.
- Implementation of the plan will reduce civil and criminal commitments by an estimated 35% and reduce demand on the city and county's law enforcement, indigent care, and mental health resources and generate savings in the respective budgets for these services.
- The plan also would generate some savings for the LMHA by diverting some demand for its resources.

Under the circumstances described above, the city, county, and LMHA could each determine whether a portion of the savings realized or anticipated from the plan should be transferred to HHSC as an IGT because the plan was developed independent of any commitment to fund an IGT. If the funds comprising the IGT otherwise meet the conditions described above, HHSC may use the transferred funds as the state share to fund payments under the Waiver to qualifying providers under the Regional Health Plan.

Example 6

- A state agency is appropriated funds by the Legislature to pay for medical care required by inmates of state prisons. The agency contracts with two state university medical schools to manage the care provided to inmates. Both the agency and the medical schools contract with public and private hospitals to provide medically necessary services outside the confines of the prison system to inmates.
- The rising cost of health care and higher than anticipated needs of the inmate population create a budget emergency that prompts the state's legislative budget board to declare an emergency and to reduce the appropriation for inpatient hospital services to an amount that represents a reduction of the amounts previously negotiated with the contracted hospitals.
- The board simultaneously orders a transfer of a portion of the savings thus generated to HHSC for the purpose of funding Waiver payments, along with an instruction to direct such payments to the contracting hospitals that qualify for payments under the Waiver.
- Under these circumstances, HHSC could apply the transferred funds to support Waiver payments under RHPs that the contracted hospitals are members of.
- The cost of care for the incarcerated population is not an allowable Medicaid expense.

Example 7

- A county hospital authority wishes to transfer funds to HHSC to support Waiver payments.
- The hospital authority does not have taxing authority, but must operate on the basis of revenues generated by the public hospital owned by the authority.
- The hospital authority has leased the hospital to a private corporation under which the hospital authority charges rent at fair market value and allows the corporation to otherwise retain the revenue generated from its operation of the hospital.
- The lease agreement includes no conditions concerning the hospital authority's use of the lease payments.

- The private hospital operator proposes transferring a portion of the hospital's revenue to the hospital authority for the specific purpose of funding an IGT.

In this example, because the hospital operator is a private corporation and the terms of its agreement with the hospital authority permit it to retain all revenues generated from the operation of the hospital, the funds it proposes to transfer are not public funds and cannot be used to fund an IGT. But because the lease payments are based on a fair market valuation of the lease, the proceeds of the lease payments could be used to funds an IGT.