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**XX.**

**TEXAS WORKFORCE COMMISSION**

The rules are adopted under Texas Labor Code §§301.0015 and 302.002(d), which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

## Chapter 803. SKILLS DEVELOPMENT FUND

### SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE SKILLS DEVELOPMENT FUND

#### §803.1. Scope and Purpose.

- (a) Purpose. The purpose of the Skills Development Fund is to enhance the ability of public community and technical colleges and the Texas Engineering Extension Service (TEEX) to respond to industry and workforce training needs and to develop incentives for public community and technical colleges, TEEX, or community-based organizations only in partnership with the public community and technical colleges or TEEX to provide customized assessment and training in a timely and efficient manner.
- (b) Goal. The goal of the Skills Development Fund is to increase the skills level and wages of the Texas workforce.

*The provisions of this §803.1 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

#### §803.2. Definitions.

In addition to the definitions contained in §800.2 of this title, the following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) Customized training project -- A project that:
  - (A) provides workforce training, with the intent of either adding to the workforce or preventing a reduction in the workforce, and is specifically designed to meet the needs and special requirements of:
    - (i) employers and employees or prospective employees of the private business or business consortium; or
    - (ii) members of the trade union; and
  - (B) is designed by a private business or business consortium, or trade union in partnership with:
    - (i) a public community college;
    - (ii) a technical college;
    - (iii) TEEX; or
    - (iv) a community-based organization only in partnership with the public community and technical colleges or TEEX.
- (2) Grant recipient -- A recipient of a Skills Development Fund grant that is:
  - (A) a public community college;
  - (B) a technical college;
  - (C) TEEX; or
  - (D) a community-based organization only in partnership with the public community and technical colleges or TEEX.

- (3) Non-local public community and technical college -- A public community college or technical college providing training outside of its local taxing district.
- (4) Private partner -- A person, sole proprietorship, partnership, corporation, association, consortium, or private organization that enters into a partnership for a customized training project with:
  - (A) a public community college;
  - (B) a technical college;
  - (C) TEEEX; or
  - (D) a community-based organization only in partnership with the public community and technical colleges or TEEEX.
- (5) Public community college -- A state-funded, two-year educational institution primarily serving its local taxing district and service area in Texas and offering vocational, technical, and academic courses for certification or associate's degrees.
- (6) Public technical college -- A state-funded coeducational institution of higher education offering courses of study in vocational and technical education, for certification or associate's degrees.
- (7) Texas Engineering Extension Service (TEEX) -- A higher education agency and service established by the Board of Regents of the Texas A&M University System.
- (8) Trade union -- An organization, agency, or employee committee in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.
- (9) Training provider -- An entity or individual that provides training, including:
  - (A) a public community college;
  - (B) a technical college;
  - (C) TEEEX;
  - (D) a community-based organization only in partnership with the public community college or technical college or TEEEX; or
  - (E) a person, sole proprietorship, partnership, corporation, association, consortium, governmental subdivision, or public or private organization with whom a public community or technical college or TEEEX has subcontracted to provide training.

*The provisions of this §803.2 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

### **§803.3. Uses of the Fund.**

- (a) The Skills Development Fund may be used by a grant recipient as start-up or emergency funds for the following purposes:
  - (1) to develop customized training projects for businesses and trade unions; and
  - (2) to sponsor small and medium-sized business networks and consortiums for the purpose of developing customized training.
- (b) TEEEX training activities shall focus on projects that are statewide or are not available from a local public community and junior college district, a local technical college, or a consortium of public

community and junior college districts. In developing such projects, TEEEX may participate in a consortium of public community and junior college districts or with a technical college that provides training under Texas Labor Code, Chapter 303.

- (c) Technical college training activities shall focus on projects that are not available from a local public community college, except in the technical college's local service area, and shall be encouraged to focus on projects that are statewide.
- (d) The Skills Development Fund may not be used:
  - (1) to pay the training costs and related costs of an employer that relocates the employer's worksite from one place in Texas to another;
  - (2) for the purchase of any proprietary or production equipment required for the training project of a single local employer;
  - (3) for wages for trainees; or
  - (4) to pay for trainee or instructor travel costs or trainee drug tests.
- (e) The Skills Development Fund may not be used to pay for the lease of equipment if any one of the following four criteria is characteristic of the lease transaction:
  - (1) The lease transfers ownership of the equipment to the lessee at the end of the lease term;
  - (2) The lease contains a bargain purchase option;
  - (3) The lease term is equal to 75% or more of the estimated economic life of the leased equipment; or
  - (4) The present value of the minimum lease payments at the inception of the lease, excluding executory costs, equals at least 90% of the fair value of the leased equipment.

*The provisions of this §803.3 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

## **SUBCHAPTER B. PROGRAM ADMINISTRATION**

### **§803.11. Grant Administration.**

Grant recipients must enter into an agreement with the Agency to comply with contract requirements that include, but are not limited to:

- (1) submitting all required reports, including financial and performance reports, in the format and time frame required by the Agency;
- (2) maintaining fiscal data needed for independent verification of expenditures of funds received for the customized training project;
- (3) cooperating and complying with Agency monitoring activities as required by Chapter 800, Subchapter H, of this title (relating to Agency Monitoring Activities); and
- (4) submitting contract completion reports:
  - (A) The final payment is contingent upon the executive director's, or designee's, determination that a project has met the training objectives, outcomes, and requirements (an attrition rate of up to 15% of the total number of trainees in the contract is allowed).

- (B) The final payment of the contract will be withheld for 60 days after the completion of training and after receipt by the Agency of verification from the employer that the trainees are employed.

*The provisions of this §803.11 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

#### **§803.12. Limitations on Awards.**

The Agency may impose any or all of the following limitations on the amount of funds awarded under any specific grant:

- (1) A limit of \$500,000 for the training project of a single employer;
- (2) A limit of 10% of the grant amount for the allowable purchase of any proprietary or production equipment required for the training project;
- (3) A limit of 10% for administrative costs related to direct training for the training project of a single employer; or
- (4) A limit of 15% for administrative costs related to direct training for the training project of entities other than a single employer.

*The provisions of this §803.12 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

#### **§803.13. Program Objectives.**

The following are the program objectives in administering the Skills Development Fund:

- (1) To ensure that funds from the program are spent in all areas of this state and expand the state's capacity to respond to workforce training needs;
- (2) To develop projects in workforce areas through collaboration with the Boards;
- (3) To develop projects that, at completion of the training, will result in wages equal to or greater than the prevailing wage of persons with similar knowledge and experience in that occupation in the local labor market for the participants in the customized training project;
- (4) To prioritize the processing of grant requests from workforce areas where the unemployment rate is higher than the state's annual average unemployment rate; and
- (5) To sponsor creation and attraction of high-value, high-skill jobs for the state that will facilitate the growth of industry and emerging occupations.
- (6) To the greatest extent practicable, the Agency will award Skills Development Fund grants as follows:
  - (A) Approximately 60% of the funds may be for job retention training; and
  - (B) The remaining funds may be for training for job creation.

*The provisions of this §803.13 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

#### **§803.14. Procedure for Requesting Funding.**

- (a) After obtaining the review and comments of the Board in the applicable workforce area(s), where there is a significant impact on job creation or incumbent worker training, a private partner or a trade union, together with a public community or technical college or TEEK, shall present to the

executive director, or designee, a proposal requesting funding for a customized training project or other appropriate use of the fund.

- (b) TEEEX, or the public community or technical college that is a partner to a training proposal for a grant from the Skills Development Fund, may be non-local.
- (c) The training proposal shall not duplicate a training project available in the workforce area in which the private partner or trade union is located.
- (d) Proposals shall disclose other grant funds sought or awarded from the Agency or other state and federal entities for the proposed job training project.
- (e) Applicants shall indicate whether they are submitting concurrent proposals for the Skills Development Fund and the Texas Enterprise Fund. For the purposes of this subsection, "concurrent proposal" shall mean:
  - (1) a proposal for the Skills Development Fund that has been submitted and is pending at the time an applicant submits a proposal for the Texas Enterprise Fund; or
  - (2) a proposal for the Texas Enterprise Fund that has been submitted and is pending at the time an applicant submits a proposal for the Skills Development Fund.
- (f) Proposals shall be written and contain the following information:
  - (1) The number of proposed jobs created and/or retained;
  - (2) A brief outline of the proposed training project, including the skills acquired through training and the employer's involvement in the planning and design;
  - (3) A brief description of the measurable training objectives and outcomes;
  - (4) The occupation and wages for participants who complete the customized training project;
  - (5) A budget summary, disclosing anticipated project costs and resource contributions, including the dollar amount the private partner is willing to commit to the project;
  - (6) A signed agreement between the private partner or trade union and the public community or technical college or TEEEX outlining each entity's roles and responsibilities if a grant is awarded;
  - (7) A statement explaining the basis for the determination that there is an actual or projected labor shortage in the occupation in which the proposed training project will be provided that is not being met by an existing institution or program in the workforce area;
  - (8) A comparison of costs per trainee for the customized training project and costs for similar instruction at the public community or technical college or TEEEX;
  - (9) A statement describing the private partner's or trade union's equal opportunity employment policy;
  - (10) A list of the proposed employment benefits;
  - (11) An indication of a concurrent proposal as required by subsection (e) of this section; and
  - (12) Any additional information deemed necessary by the Agency to complete evaluation of a proposal.

*The provisions of this §803.14 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

### **§803.15. Procedure for Proposal Evaluation.**

- (a) The executive director, or designee, shall evaluate each proposal considering the purposes listed in §803.3(a) of this subchapter, the program objectives listed in §803.13 of this subchapter, and procedures in §803.14 of this subchapter, along with the prevailing wage for occupations in the local labor market area, the financial stability of the private partner, the regional economic impact, and any other factors unique to the circumstances that the Agency determines are appropriate.
- (b) The Agency shall notify the Board in the applicable workforce area when the Agency is evaluating a proposal so as to inform the Board of potential workforce activities in the workforce area.
- (c) If the Agency determines that a proposal is appropriate for funding through the Skills Development Fund, the executive director, or designee, shall enter into a contract with the grant recipient on behalf of the Agency.

*The provisions of this §803.15 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

## **SUBCHAPTER C. PROGRAM ADMINISTRATION AFTER AWARD OF CONTRACT**

### **§803.31. Notice to Local Workforce Development Board.**

The Agency shall inform the Board in the applicable workforce area of final decisions made regarding Skills Development Fund grants in the workforce area.

*The provisions of this §803.31 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*

### **§803.32. Waivers.**

The executive director, or designee, may suspend or waive a section of this chapter, not statutorily imposed, in whole or in part upon a showing of good cause and a finding that the public interest would be served by such a suspension or waiver.

*The provisions of this §803.32 adopted to be effective January 9, 2006, as published in the Texas Register, January 6, 2006, 31 TexReg 174.*