

1 **CHAPTER 803. SKILLS DEVELOPMENT FUND**

2 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***  
3 ***REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
4 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**

5 The Texas Workforce Commission (TWC) proposes following new section of Chapter 803,  
6 relating to the Skills Development Fund:

7 Subchapter A. General Provisions Regarding the Skills Development Fund, §803.4

8 TWC proposes amendments to the following sections of Chapter 803, relating to the Skills  
9 Development Fund:

10 Subchapter A. General Provisions Regarding the Skills Development Fund, §§803.1 - 803.2

11 Subchapter B. Program Administration, §803.11 and §§803.13 - 803.15

12 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

13 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

14 **PART III. IMPACT STATEMENTS**

15 **PART IV. COORDINATION ACTIVITIES**

16 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

17 The purpose of the proposed Chapter 803 rule changes is to implement statutory changes related  
18 to the Skills Development Fund (SDF) program.

19 House Bill (HB) 700, 86th Texas Legislature, Regular Session (2019), amended sections of  
20 Texas Labor Code Chapter 303, relating to the SDF program. The bill amended §303.001(a) to  
21 add Local Workforce Development Boards (Boards) to the list of entities that are eligible to use  
22 SDF grants as an incentive to provide customized assessment and training.

23 Additionally, HB 108, 85th Texas Legislature, Regular Session (2017), amended the Texas  
24 Labor Code to add §303.0031 regarding the use of SDF grants to encourage employer expansion  
25 and recruitment. The section allows SDF grants to provide "an intensive and rapid response to,  
26 and support services for, employers expanding in or relocating their operations to this state, with  
27 a focus on recruiting employers that will provide complex or high-skilled employment  
28 opportunities in this state."

29 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

30 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
31 therefore, are not discussed in the Explanation of Individual Provisions.)

32 Texas Government Code §2001.039 requires that every four years each state agency review and  
33 consider for readoption, revision, or repeal each rule adopted by that agency. TWC has assessed  
34 whether the reasons for adopting or readopting the rules continue to exist. TWC finds that the  
35 rules in Chapter 803 are needed, reflect current legal and policy considerations, and reflect  
36 current TWC procedures. The reasons for initially adopting the rules continue to exist. TWC,

1 therefore, proposes to readopt Chapter 803, Skills Development Fund, with amendments  
2 described in this proposed rulemaking.

3 **SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE SKILLS**  
4 **DEVELOPMENT FUND**

5 **TWC proposes the following amendments to Subchapter A:**

6 **§803.1. Scope and Purpose**

7 Section 803.1(a) is amended to provide a broad statement on the purpose of the SDF. This  
8 language reflects the statutory purpose in the Texas Labor Code, §303.001 and includes business  
9 expansion and relocation purpose in the Texas Labor Code, §303.003. The amended language  
10 removes references to required partnerships for community-based organization as this eligibility  
11 requirement is described §803.2.

12  
13 Section 803.1(a) is also amended to add Boards to the list of entities eligible to receive SDF  
14 grants to provide customized assessment and training pursuant to Texas Labor Code §303.001.

15 TWC notes that Texas Government Code §2308.264 prohibits Boards from directly providing  
16 workforce training or one-stop workforce services unless the Board requests and is approved for  
17 a waiver based on the lack of an existing qualified alternative for delivery of workforce services  
18 in the local workforce development area (workforce area). Chapter 303 (as amended by HB 700)  
19 allows Boards to apply for and use SDF funds:

- 20 --as an incentive to provide customized training;
- 21 --to develop customized training; and
- 22 --to sponsor small and medium-sized business networks and consortiums for job training  
23 purposes.

24 Chapter 303 does not state that Boards must provide the training directly and, therefore, does not  
25 conflict with §2308.264.

26 Section 803.1(a) is also amended to add "A&M" to complete the name of the Texas Engineering  
27 Extension Service, which reflects the language in Texas Labor Code §303.001.

28 **§803.2. Definitions**

29 Definitions in §803.2 are amended as follows:

30 --Section 803.2(1) is amended to include a Board as a design partner in the definition of a  
31 "customized training project."

32 --Section 803.2(2) is amended to include a Board in the definition of a "grant recipient."

33 --Section 802.2(7) is amended to add "A&M" to the defined term "Texas Engineering Extension  
34 Service."

35 --Section 803.2(9) is amended to include a Board contractor in the definition of a "training  
36 provider."

37 **§803.4. Use of Funds to Encourage Employer Expansion and Recruitment**

38 New §803.4 is added to implement Texas Labor Code §303.0031, relating to the use of the SDF  
39 to support employers expanding in or relocating to Texas. The rule language reflects the  
40 statutory language in §303.0031.

1 Section 803.4(a) reflects the statutory language in the Texas Labor Code that the SDF may be  
2 used to provide an intensive and rapid response to, and support services for, employers  
3 expanding in or relocating their operations to Texas, with a focus on recruiting employers that  
4 will provide complex or high-skilled employment opportunities in the state.

5 New §803.4(b) reflects the statutory language in the Texas Labor Code that the SDF grand funds  
6 may be used to:

- 7 --provide leadership and direction to, and connections among, out-of-state employers, economic  
8 development organizations, Boards, public community colleges, and public technical colleges to  
9 support employers' recruitment and hiring for complex or high-skilled employment positions as  
10 necessary to facilitate the employers' relocation to or expansion of operations in Texas; and
- 11 --award grants to public community colleges or public technical colleges that provide workforce  
12 training and related support services to employers that commit to establishing a place of business  
13 in Texas.

14 New §803.4(c) reflects the statutory language in the Texas Labor Code that the SDF grant funds  
15 may be used to develop:

- 16 --customized workforce training programs for an employer's specific business needs;
- 17 --fast-track curriculum;
- 18 --workforce training--related support services for employers; and
- 19 --instructor certification necessary to provide workforce training.

20 New §803.4(d) reflects the statutory language in the Texas Labor Code that SDF grant funds  
21 may also be used to acquire training equipment necessary for instructor certification and  
22 employment. The rule language clarifies that the use of funds for this purpose is permitted only  
23 for SDF grants that are funded under §803.4 to support employers expanding in or relocating to  
24 Texas.

25 Section 303.0031 allows TWC to require grant recipients, as a condition of receiving grant funds  
26 under this section, to agree to repay the amount received and any related interest if TWC  
27 determines that the grant funds were not used for the purposes for which the funds were  
28 awarded. New §803.4(e) includes this option.

29 **SUBCHAPTER B. PROGRAM ADMINISTRATION**

30 **TWC proposes the following amendments to Subchapter B:**

31 **§803.11. Grant Administration**

32 Section 803.11(3) is amended to correct the citation for Agency Monitoring Activities to Chapter  
33 802, Subchapter D.

34 **§803.13. Program Objectives**

35 Section 803.13(2) is amended to promote collaboration of workforce activities in workforce  
36 areas as an SDF program objective. The amended language removes collaboration solely with  
37 Boards and expands the promotion of collaboration and awareness of workforce activities to a  
38 broader partnership of entities.

39 **§803.14. Procedure for Requesting Funding**

1 Section 803.14 is amended to remove the language stating that SDF applicants obtain the review  
2 and comments of the Board in the applicable workforce areas where there is a significant impact  
3 on job creation or incumbent worker training.

4 TWC notes that collaboration between grant applicants and Boards during the SDF project  
5 development review and evaluation process ensures that the needs of local industry and the  
6 workforce are being met effectively and efficiently. Collaboration among separate grant  
7 applicants during the project development phase ensures that potential SDF projects do not  
8 provide duplicative services.

9 However, with the passage of HB 700, which allows Boards to apply for SDF grants, TWC  
10 acknowledges that non-Board grant applicants may have concerns about requiring another  
11 potential grant applicant to review and comment on the application before submitting it to TWC-  
12 -specifically that this may appear to provide a Board with a potential advantage in the  
13 development of the Board's SDF application.

14 Accordingly, §803.14(a) is amended to remove the requirement that Boards review and comment  
15 on SDF applicants before the application is submitted to TWC.

16 Section 803.14(f)(6) is amended to include Boards, along with the entities currently in rule, in  
17 the signed agreement outlining each entity's roles and responsibilities if a grant is awarded.

18 Section 803.14(f)(8) is amended to require grant applicants to include a comparison of costs per  
19 trainee for customized training projects for similar Board instruction in the grant application in  
20 order to align with the current requirement for comparison of costs with instruction at  
21 community and technical colleges or TEEX.

### 22 **§803.15. Procedure for Proposal Evaluation**

23 Section 803.15(b) is amended to remove the requirement that TWC must notify the Board in the  
24 applicable workforce area when it is evaluating an SDF application. The amended section adds  
25 the requirement that TWC must notify all eligible grant applicants when it is evaluating an SDF  
26 application. The intent of the amended language is that this notification is to promote  
27 collaboration and awareness of potential workforce activities in the workforce area.

28 TWC Chapter 802, Subchapter G, Corrective Actions, allows TWC to impose corrective actions  
29 when a Board or TWC grantee--defined in §802.2(1) to include SDF grantees--has failed to  
30 comply with contract requirements.

31 TWC contends that if an entity has failed to comply with past contract requirements and  
32 continues to be on corrective action for this noncompliance at the time of the entity's application,  
33 the entity should not be eligible for an SDF grant. Therefore, §803.15(d) is added to prohibit  
34 SDF applicants on corrective action as described in Chapter 802, Subchapter G, from receiving  
35 an SDF grant.

### 36 **PART III. IMPACT STATEMENTS**

37 Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the  
38 rules will be in effect, the following statements will apply:

1 There are no additional estimated costs to the state and to local governments expected as a result  
2 of enforcing or administering the rules.

3 There are no estimated cost reductions to the state and to local governments as a result of  
4 enforcing or administering the rules.

5 There are no estimated losses or increases in revenue to the state or to local governments as a  
6 result of enforcing or administering the rules.

7 There are no foreseeable implications relating to costs or revenue of the state or local  
8 governments as a result of enforcing or administering the rules.

9 There are no anticipated economic costs to individuals required to comply with the rules.

10 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural  
11 communities as a result of enforcing or administering the rules.

12 Based on the analyses required by Texas Government Code §2001.024, TWC has determined  
13 that the requirement to repeal or amend a rule, as required by Texas Government Code  
14 §2001.0045, does not apply to this rulemaking.

15 Takings Impact Assessment

16 Under Texas Government Code, §2007.002(5), "taking" means a governmental action that  
17 affects private real property, in whole or in part or temporarily or permanently, in a manner that  
18 requires the governmental entity to compensate the private real property owner as provided by  
19 the Fifth and Fourteenth Amendments to the United States Constitution or the Texas  
20 Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that  
21 would otherwise exist in the absence of the governmental action, and is the producing cause of a  
22 reduction of at least 25 percent in the market value of the affected private real property,  
23 determined by comparing the market value of the property as if the governmental action is not in  
24 effect and the market value of the property determined as if the governmental action is in  
25 effect. The Commission completed a Takings Impact Analysis for the proposed rulemaking  
26 action under Texas Government Code, §2007.043. The primary purpose of this proposed  
27 rulemaking action, as discussed elsewhere in this preamble, is to implement statutory changes  
28 related to the SDF.

29 The proposed rulemaking action will not create any additional burden on private real property.  
30 The proposed rulemaking action will not affect private real property in a manner that would  
31 require compensation to private real property owners under the United States Constitution or the  
32 Texas Constitution. The proposal also will not affect private real property in a manner that  
33 restricts or limits an owner's right to the property that would otherwise exist in the absence of the  
34 governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas  
35 Government Code, Chapter 2007.

36 Government Growth Impact Statement

37 TWC has determined that during the first five years the proposed amendments will be in effect:  
38 --the proposed amendments will not create or eliminate a government program;

- 1 --implementation of the proposed amendments will not require the creation or elimination of
- 2 employee positions;
- 3 --implementation of the proposed amendments will not require an increase or decrease in future
- 4 legislative appropriations to TWC;
- 5 --the proposed amendments will not require an increase or decrease in fees paid to TWC;
- 6 --the proposed amendments will not create a new regulation;
- 7 --the proposed amendments will not expand, limit, or eliminate an existing regulation;
- 8 --the proposed amendments will not change the number of individuals subject to the rules; and
- 9 --the proposed amendments will not positively or adversely affect the state's economy.

10 Economic Impact Statement and Regulatory Flexibility Analysis

11 TWC has determined that the proposed rule will not have an adverse economic impact on small  
12 businesses or rural communities, as the proposed rules place no requirements on small businesses  
13 or rural communities.

14 Mariana Vega, Director of Labor Market and Career Information, has determined that there is no  
15 significant negative impact upon employment conditions in the state as a result of the rules.

16 Courtney Arbour, Director, Workforce Development Division, has determined that for each year  
17 of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing  
18 the proposed rules will be to implement statutory changes related to the SDF.

19 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be  
20 within TWC's legal authority to adopt.

21 **PART IV. COORDINATION ACTIVITIES**

22 In the development of these rules for publication and public comment, TWC sought the  
23 involvement of Texas' 28 Local Workforce Development Boards (Boards). TWC provided the  
24 concept paper regarding these rule amendments to the Boards for consideration and review on  
25 January 7, 2020. TWC also conducted a conference call with Board executive directors and  
26 Board staff on January 17, 2020, to discuss the concept paper. During the rulemaking process,  
27 TWC considered all information gathered in order to develop rules that provide clear and concise  
28 direction to all parties involved.

29 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce  
30 Program Policy, attn.: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas  
31 78778; faxed to (512) 475-3577; or emailed to [TWCPolicyComments@twc.state.tx.us](mailto:TWCPolicyComments@twc.state.tx.us).  
32 Comments must be received or postmarked no later than 30 days from the date this proposal is  
33 published in the *Texas Register*.

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

37 The proposed rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.

1 CHAPTER 803. SKILLS DEVELOPMENT FUND

2 SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE SKILLS DEVELOPMENT FUND

3 §803.1. Scope and Purpose.

4 (a) Purpose. The purpose of the Skills Development Fund is to develop customized  
5 training projects for businesses and trade unions and to support employers expanding  
6 or relocating to Texas by enhancing ~~enhance~~ the ability of public community and  
7 technical colleges, Local Workforce Development Boards (Boards), and the Texas  
8 A&M Engineering Extension Service (TEEX) to respond to industry and workforce  
9 training needs and to develop incentives for Boards, public community and technical  
10 colleges, TEEX, or community-based organizations ~~only in partnership with the~~  
11 ~~public community and technical colleges or TEEX~~ to provide customized assessment  
12 and training in a timely and efficient manner.

13 (b) Goal. The goal of the Skills Development Fund is to increase the skills level and  
14 wages of the Texas workforce.

15 §803.2. Definitions.

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

19 (1) Customized training project--A project that:

20 (A) provides workforce training, with the intent of either adding to the  
21 workforce or preventing a reduction in the workforce, and is specifically  
22 designed to meet the needs and special requirements of:

23 (i) employers and employees or prospective employees of the private  
24 business or business consortium; or

25 (ii) members of the trade union; and

26 (B) is designed by a private business or business consortium, or trade union in  
27 partnership with:

28 (i) a public community college;

29 (ii) a technical college;

30 (iii) TEEX;

31 (iv) a Board; or

32 (v) ~~(iv)~~ a community-based organization only in partnership with the  
33 public community and technical colleges or TEEX.

- 1 (2) Grant recipient--A recipient of a Skills Development Fund grant that is:
- 2 (A) a public community college;
- 3 (B) a technical college;
- 4 (C) TEEX;
- 5 (D) a Board; or
- 6 (E)~~(D)~~ a community-based organization only in partnership with the public
- 7 community and technical colleges or TEEX.
- 8 (3) Non-local public community and technical college--A public community
- 9 college or technical college providing training outside of its local taxing
- 10 district.
- 11 (4) Private partner--An individual~~A person~~, sole proprietorship, partnership,
- 12 corporation, association, consortium, or private organization that enters into a
- 13 partnership for a customized training project with:
- 14 (A) a public community college;
- 15 (B) a technical college;
- 16 (C) TEEX; or
- 17 (D) a community-based organization only in partnership with the public
- 18 community and technical colleges or TEEX.
- 19 (5) Public community college--A state-funded, two-year educational institution
- 20 primarily serving its local taxing district and service area in Texas and offering
- 21 vocational, technical, and academic courses for certification or associate's
- 22 degrees.
- 23 (6) Public technical college--A state-funded coeducational institution of higher
- 24 education offering courses of study in vocational and technical education, for
- 25 certification or associate's degrees.
- 26 (7) Texas A&M Engineering Extension Service (TEEX)--A higher education
- 27 agency and service established by the Board of Regents of the Texas A&M
- 28 University System.
- 29 (8) Trade union--An organization, agency, or employee committee in which
- 30 employees participate and which exists for the purpose of dealing with
- 31 employers concerning grievances, labor disputes, wages, rates of pay, hours of
- 32 employment, or conditions of work.
- 33 (9) Training provider--An entity or individual that provides training, including:



- 1 (A) a public community college;
- 2 (B) a technical college;
- 3 (C) TEEEX;
- 4 (D) a community-based organization only in partnership with the public  
5 community-college or technical college or TEEEX; or
- 6 (E) An individual~~a person~~, sole proprietorship, partnership, corporation,  
7 association, consortium, governmental subdivision, or public or private  
8 organization with whom a Board, public community or technical college,  
9 or TEEEX has subcontracted to provide training.

10 **§803.3. Uses of the Fund.**

- 11 (a) The Skills Development Fund may be used by a grant recipient as start-up or  
12 emergency funds for the following purposes:
  - 13 (1) to develop customized training projects for businesses and trade unions; and
  - 14 (2) to sponsor small and medium-sized business networks and consortiums for the  
15 purpose of developing customized training.
- 16 (b) TEEEX training activities shall focus on projects that are statewide or are not available  
17 from a local public community and junior college district, a local technical college, or  
18 a consortium of public community and junior college districts. In developing such  
19 projects, TEEEX may participate in a consortium of public community and junior  
20 college districts or with a technical college that provides training under Texas Labor  
21 Code, Chapter 303.
- 22 (c) Technical college training activities shall focus on projects that are not available from  
23 a local public community college, except in the technical college's local service area,  
24 and shall be encouraged to focus on projects that are statewide.
- 25 (d) The Skills Development Fund may not be used:
  - 26 (1) to pay the training costs and related costs of an employer that relocates the  
27 employer's worksite from one place in Texas to another;
  - 28 (2) for the purchase of any proprietary or production equipment required for the  
29 training project of a single local employer;
  - 30 (3) for wages for trainees; or
  - 31 (4) to pay for trainee or instructor travel costs or trainee drug tests.
- 32 (e) The Skills Development Fund may not be used to pay for the lease of equipment if  
33 any one of the following four criteria is characteristic of the lease transaction:

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- (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.

**§803.4. Use of Funds to Encourage Employer Expansion and Recruitment.**

- (a) Pursuant to Texas Labor Code §303.0031, the Skills Development Fund may be used to provide an intensive and rapid response to, and support services for, employers expanding in or relocating their operations to Texas, with a focus on recruiting employers that will provide complex or high-skilled employment opportunities in the state.
- (b) Grant funds under this section may be used to:
  - (1) provide leadership and direction to, and connections among, out-of-state employers, economic development organizations, Boards, public community and technical colleges to support employers' recruitment and hiring for complex or high-skilled employment positions as necessary to facilitate the employers' relocation to or expansion of operations in Texas; and
  - (2) award grants to public community or technical colleges that provide workforce training and related support services to employers that commit to establishing a place of business in Texas.
- (c) Grant funds under this section may be used only to develop:
  - (1) customized workforce training programs for an employer's specific business needs;
  - (2) fast-track curriculum;
  - (3) workforce training--related support services for employers; and
  - (4) instructor certification necessary to provide workforce training.

1 (d) Notwithstanding the use of funds restrictions in §803.3(d)(2), grant funds may also  
2 be used to acquire training equipment necessary for instructor certification and  
3 employment.

4 (e) As a condition of receiving grant funds under this section, grant recipients shall  
5 agree to repay the amount received and any related interest if the Agency  
6 determines that the grant recipients did not use the funds for the purposes for which  
7 the funds were awarded.

## 8 **SUBCHAPTER B. PROGRAM ADMINISTRATION**

### 9 **§803.11. Grant Administration.**

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

- 12 (1) submitting all required reports, including financial and performance reports, in  
13 the format and time frame required by the Agency;
- 14 (2) maintaining fiscal data needed for independent verification of expenditures of  
15 funds received for the customized training project;
- 16 (3) cooperating and complying with Agency monitoring activities as required by  
17 Chapter 802, Subchapter D, ~~Chapter 800, Subchapter H~~ of this title (relating to  
18 Agency Monitoring Activities); and
- 19 (4) submitting contract completion reports:
  - 20 (A) The final payment is contingent upon the executive director's, or  
21 designee's, determination that a project has met the training objectives,  
22 outcomes, and requirements (an attrition rate of up to 15% of the total  
23 number of trainees in the contract is allowed).

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

4 **§803.12. Limitations on Awards.**

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

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

14 **§803.13. Program Objectives.**

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

- 17 (1) ~~to~~ ensure that funds from the program are spent in all local workforce  
18 development areas (workforce areas) of this state and expand the state's  
19 capacity to respond to workforce training needs;
- 20 (2) ~~to~~ promote collaboration and awareness of potential workforce activities in  
21 workforce areas ~~develop projects in workforce areas through collaboration~~  
22 ~~with the Boards~~;
- 23 (3) ~~to~~ develop projects that, at completion of the training, will result in wages  
24 equal to or greater than the prevailing wage of individuals ~~persons~~ with similar  
25 knowledge and experience in that occupation in the local labor market for the  
26 participants in the customized training project;
- 27 (4) ~~to~~ prioritize the processing of grant requests from workforce areas where the  
28 unemployment rate is higher than the state's annual average unemployment  
29 rate; ~~and~~
- 30 (5) ~~to~~ sponsor creation and attraction of high-value, high-skill jobs for the state  
31 that will facilitate the growth of industry and emerging occupations; and;
- 32 (6) ~~to~~ the greatest extent practicable, ~~the Agency will~~ award Skills Development  
33 Fund grants as follows:

1 (A) Approximately 60 ~~percent~~<sup>0%</sup> of the funds may be for job retention  
2 training. ~~and~~

3 (B) The remaining funds may be for training for job creation.

4 **§803.14. Procedure for Requesting Funding.**

5 (a) ~~A~~ ~~After obtaining the review and comments of the Board in the applicable workforce~~  
6 ~~area(s), where there is a significant impact on job creation or incumbent worker~~  
7 ~~training, a~~ private partner or a trade union, together with a Board, public community  
8 or technical college, or TEEEX, shall present to the executive director, or designee, a  
9 proposal requesting funding for a customized training project or other appropriate  
10 use of the fund.

11 (b) TEEEX, or the public community or technical college that is a partner to a training  
12 proposal for a grant from the Skills Development Fund, may be non-local.

13 (c) The training proposal shall not duplicate a training project available in the workforce  
14 area in which the private partner or trade union is located.

15 (d) Proposals shall disclose other grant funds sought or awarded from the Agency or  
16 other state and federal entities for the proposed job training project.

17 (e) Applicants shall indicate whether they are submitting concurrent proposals for the  
18 Skills Development Fund and the Texas Enterprise Fund. For the purposes of this  
19 subsection, "concurrent proposal" shall mean:

20 (1) a proposal for the Skills Development Fund that has been submitted and is  
21 pending at the time an applicant submits a proposal for the Texas Enterprise  
22 Fund; or

23 (2) a proposal for the Texas Enterprise Fund that has been submitted and is pending  
24 at the time an applicant submits a proposal for the Skills Development Fund.

25 (f) Proposals shall be written and contain the following information:

26 (1) The number of proposed jobs created and/or retained;

27 (2) A brief outline of the proposed training project, including the skills acquired  
28 through training and the employer's involvement in the planning and design;

29 (3) A brief description of the measurable training objectives and outcomes;

30 (4) The occupation and wages for participants who complete the customized  
31 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 Board, 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,~~ and the Board;
- (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.

**§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 all eligible grant applicants ~~the Board in the applicable workforce area~~ when the Agency is evaluating a proposal so as to promote collaboration and awareness ~~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.
- (d) Skills Development Fund applicants on corrective action pursuant to Chapter 802, Subchapter G, shall not be eligible to receive a Skills Development Fund grant.

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

2 **§803.31. Notice to Local Workforce Development Board.**

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

5 **§803.32. Waivers.**

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