

1 **CHAPTER 803. SKILLS DEVELOPMENT FUND**

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

7
8 The Texas Workforce Commission (Commission) adopts amendments to rules
9 concerning the Skills Development Fund. Texas Government Code §2001.039 requires
10 that each state agency review and consider for readoption each rule adopted by that
11 agency. The Commission has reviewed Chapter 803 and determined that reasons for
12 adopting the chapter exist; however, amendments to the rules are needed in order to
13 update terminology and reflect recent changes in state law.

14
15 The Commission adopts the repeal of the following sections of Chapter 803 relating to
16 the Skills Development Fund *without* changes to the proposed text as published in the
17 October 7, 2005, issue of the *Texas Register*:

18
19 Subchapter C. Program Administration After Award of Contract,
20 §§803.31 - 803.36

21
22 The Commission adopts the following new sections to Chapter 803 relating to the Skills
23 Development Fund *without* changes to the proposed text as published in the October 7,
24 2005, issue of the *Texas Register*:

25
26 Subchapter C. Program Administration After Award of Contract, §803.31 and
27 §803.32

28
29 The Commission adopts amendments to the following sections of Chapter 803 relating to
30 the Skills Development Fund *without* changes to the proposed text as published in the
31 October 7, 2005, issue of the *Texas Register*:

32
33 Subchapter A. General Provisions Regarding the Skills Development Fund,
34 §803.1 and §803.3

35
36 Subchapter B. Program Administration, §§803.12, 803.13, and 803.15

37
38 The Commission adopts amendments to the following sections of Chapter 803 relating to
39 the Skills Development Fund *with* changes to the proposed text as published in the
40 October 7, 2005, issue of the *Texas Register*:

41
42 Subchapter A. General Provisions Regarding the Skills Development Fund,
43 §803.2

44
45 Subchapter B. Program Administration, §803.11 and §803.14

1 PART I. PURPOSE, BACKGROUND, AND AUTHORITY
2 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS
3 AND RESPONSES
4 PART III. COORDINATION ACTIVITIES

5
6 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
7

8 The purpose of the adopted Chapter 803 rule change is to:

- 9 (1) address additional priorities in awarding Skills Development Fund grants as directed
10 by House Bill (HB) 2421, enacted by the 79th Texas Legislature, Regular
11 Session;
12 (2) eliminate certain rule language also found in statute;
13 (3) remove administrative processes and procedures that are unnecessary in rules; and
14 (4) incorporate minor technical edits throughout the rules for improved clarity and
15 consistency.

16
17 The additional requirements for Skills Development Fund grants include providing
18 notification of concurrent participation with the Skills Development Fund and the Texas
19 Enterprise Fund with the Office of the Governor Economic Development and Tourism
20 division; training incentives for small businesses; and the availability of funds for
21 incumbent worker training and training focused on economic development.

22
23 Effective June 18, 2005, HB 2421 amended Texas Labor Code §303.005 to prohibit an
24 employer from applying for both a Skills Development Fund grant [in conjunction with a
25 community or technical college or the Texas Engineering Extension Service (TEEX)] and
26 a Texas Enterprise Fund grant, unless the employer and the college file an application for
27 concurrent participation.

28
29 Additionally, HB 2421 directs the Commission to consider giving priority to training
30 incentives for small businesses. Pursuant to Texas Labor Code §303.003(b)(2), one of
31 the purposes of the Skills Development Fund is to sponsor small businesses, which is
32 addressed in the current rules under Uses of the Fund. The adopted rules add a cross-
33 reference to this existing section under Procedures for Proposal Evaluation to ensure that
34 the purposes of the Skills Development Fund grants are included in the evaluation of
35 proposals.

36
37 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS**
38 **AND RESPONSES**

39 (Note: Minor, nonsubstantive, editorial changes are made throughout Chapter 803 that
40 do not change the meaning of the rules and, therefore, are not discussed in the
41 Explanation of Individual Provisions.)

42
43 **SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE SKILLS**
44 **DEVELOPMENT FUND**

45
46 **§803.2. Definitions**

1
2 The Commission adopts the removal of §803.2(1), the definition of "assessment," and
3 §803.2(2), the definition of "community-based organization," because both terms are
4 defined in Texas Labor Code §303.001(b)(1) and §303.001(b)(2), respectively.

5
6 Current §803.2(3), the definition of "customized training project," is reorganized and
7 renumbered as §803.2(1). The Commission amends the definition to state that not only a
8 private business, but also a business consortium, or a community-based organization only
9 in partnership with a public community college, a technical college, or TEEX, may
10 participate in designing the customized training project.

11
12 **Comment:** One commenter expressed support of the clarification that a business
13 consortium may participate in designing the customized training project.

14
15 **Response:** The Commission appreciates the commenter's support.

16
17 **Comment:** One commenter recommended clarifying the definition of customized
18 training project by specifying that the training offered is not part of the training
19 provider's regular curriculum.

20
21 **Response:** The Commission agrees that customized training must be specific to an
22 employer's needs, and clarifies the definition by adding that a customized training
23 project provides workforce training that is "specifically designed to meet the needs
24 and special requirements of employers" and employees or prospective employees of
25 the private business or business consortium, or members of the trade union.

26
27 However, the Commission disagrees that customized training does not include standard
28 courses available through the provider. While customized training extends beyond the
29 course curriculum, it may also encompass standard courses. The overall unique design
30 and development of a training project creates customization. A truly customized training
31 project meets an employer's specific training requirements, such as customizing the
32 curriculum, classes scheduled around the employees' schedules, application to specific
33 company examples, as well as addressing needs in real time with real situations.

34
35 The Commission adopts the deletion of §803.2(4), the definition of "director," because it
36 is defined in Chapter 800.2 of this title; therefore, it is unnecessary to redefine the term in
37 this chapter. Further, the Commission adopts the proposal to update references to
38 director throughout Chapter 803 to "executive director," to correctly reflect the Chapter
39 800 definition.

40
41 Current §803.2(5), the definition of "grant recipient," is reorganized and renumbered as
42 §803.2(2).

43
44 **Comment:** One commenter recommended allowing the Local Workforce
45 Development Boards (Boards) to be included as grant recipients with a private
46 business or consortium of businesses.

1
2 **Response:** The commenter's recommendation is not within the purview of the
3 Commission's authority. The definition of grant recipient mirrors Texas Labor Code
4 §303.003(b), which directs that the Skills Development Fund be used by public
5 community and technical colleges, community-based organizations, and TEEEX as
6 start-up or emergency funds for job training purposes.
7

8 Current §803.2(12), the definition of "training provider," is reorganized and renumbered
9 as §803.2(9). The Commission adopts the amended definition to include a community-
10 based organization only in partnership with a public community college, technical
11 college, or TEEEX as a training provider.
12

13 **§803.3. Uses of the Fund**

14
15 The Commission adopts the amendment of §803.3(a) by specifying that a grant recipient
16 may use the Skills Development Fund as start-up or emergency funds, as specified.
17 Additionally, the Commission adopts the amendment of §803.3(a)(2), which clarifies that
18 the sponsorship of small and medium-sized business networks and consortiums is for the
19 purpose of developing customized training.
20

21 22 **SUBCHAPTER B. PROGRAM ADMINISTRATION**

23 24 **§803.11. Grant Administration**

25
26 The Commission adopts the removal of §803.11(a) regarding the director's responsibility
27 for grant administration because this information is set forth in Texas Labor Code
28 §303.003(d). Additionally, the Commission adopts the removal of §803.11(b) because
29 this information is an established grants administration principle not necessary in rule.
30

31 The Commission adopts new §803.11, which states that grant recipients must enter into
32 an agreement with the Agency to comply with contract requirements, which include, but
33 are not limited to, regulations listed in these paragraphs. The Commission also amends
34 this section by specifying in §803.11(4)(A) that final payment is contingent upon the
35 determination by the executive director, or designee, that a project has met the training
36 objectives, outcomes, and requirements (an attrition rate of up to 15% of the total number
37 of trainees in the contract is allowed). Additionally, the Commission adds in
38 §803.11(4)(B) that the contract's final payment will be withheld for 60 days after the
39 completion of training and after the Agency's receipt of verification from the employer
40 that the trainees are employed.
41

42 **§803.13. Program Objectives**

43
44 The Commission adopts the amendment of §803.13(2) by referring to "local workforce
45 development areas" as "workforce areas," as set forth in the definition in §800.2 of this
46 title. Further, the Commission adopts changing references from local workforce

1 development area to workforce area throughout Chapter 803.

2
3 The Commission adopts the amendment of §803.13 by including an additional program
4 objective §803.13(6), which allows the Agency, to the greatest extent practicable, to
5 award Skills Development Fund grants as follows: (1) approximately 60% of the funds
6 may be for job retention training; and (2) the remaining funds may be for training for job
7 creation. With the exception of the Skills Development Fund, limited resources have
8 been available to upgrade the skills of existing workers to assist with job retention.
9 Because the Legislature has recognized that the Skills Development Fund is available for
10 training the existing workforce, as well as training to create new jobs, the Commission is
11 establishing a flexible goal to meet the economic needs of the state and the skills' needs
12 of employers.

13
14 **Comment:** A majority of the commenters supported the use of 60% of the funds for
15 job retention training. Many of these commenters specifically stated that 40% of the
16 funds should be used for new job creation.

17
18 **Response:** The Commission believes the commenters' intent is to support a funding
19 split that ensures incumbent workers, as well as new workers, receive critically
20 needed Skills Development Fund training. While the Commission appreciates the
21 commenters' suggestion of a 60/40 split, the Commission believes that the rule
22 language provides the greatest flexibility to make adjustments, as warranted, to
23 maximize these funds. The increased flexibility allows the Agency to be as
24 responsive as possible to employers, while providing employers the ability to retain
25 and upgrade the skills of current employees, as well as meeting the need for job
26 creation.

27
28 **Comment:** One commenter suggested using 60% of the funds or more as needed to
29 meet the demand of local businesses for job retention training, as well as for the
30 training of new hires, with the remaining funds to be used toward job creation
31 training of new businesses and expansion of existing businesses.

32
33 **Response:** The Commission believes the commenter's suggestion will dilute the
34 impact of the proposed 60/40 split by making each of these categories of funds
35 available for both job retention training, as well as the training of new hires. Further,
36 the commentor may be concerned that a single training project cannot contain both
37 training for job retention and training for job creation and, therefore, is attempting to
38 dilute the funding distinctions by including both activities in both categories. The
39 Commission maintains that the addition of this program objective to §803.13 does not
40 change the proposal submission process or burden entities with applying for separate
41 funds. Rather, the entities are applying for funding that provides them with flexibility
42 because this particular funding mechanism will be monitored and managed at the
43 state level.

44
45 **Comment:** One commenter stated that if job retention projects are to become the
46 main priority of the Skills Development Fund, the Agency should expand proposal

1 eligibility to other job retention efforts, including workplace literacy, adult
2 education, and employee asset development programs. The commenter also stated
3 that the Agency should evaluate the proposed rule change to determine if it limits
4 access to customized training for unemployed or underemployed Texans.
5

6 **Response:** Although the Chapter 803 rules do not specify literacy and adult
7 education as part of the information contained in the proposal, employers still have
8 the ability to incorporate these services for those individuals who need it. The Skills
9 Development Fund does not preclude the use of funds for literacy and adult
10 education, if an employer identifies this to be a need.
11

12 The Commission disagrees with the commenter's assertion that proposal eligibility
13 should include employee asset development programs (aka Individual Development
14 Accounts [IDAs]). In its January 1, 2005, Report to the Legislature entitled "Status of
15 the Texas Individual Development Account Pilot Project," the Commission
16 determined that:
17

18 Given the cost of administration and program services, the lack of data
19 concerning long-term benefits and the low rate of asset purchases, it would be
20 difficult to recommend implementing IDA programs statewide without further
21 research and outcome data supportive of such an effort.
22

23 Additionally, the Commission believes that the rule does not limit access to
24 customized training for unemployed or underemployed Texans. The Commission's
25 intent is, to the greatest extent practicable, to award approximately 60% of the funds
26 for job retention training, allowing the remaining funds to be used for job creation.
27 The Commission believes that training for job creation benefits unemployed
28 individuals by developing skills that may lead to a job. The Commission also
29 believes that underemployed individuals benefit by receiving skills enhancement and
30 occupational advancement training, thereby helping them climb the career ladder.
31

32 The Commission adopts the removal of §803.13(b) because it duplicates information
33 found in §803.13(4).
34

35 **§803.14. Procedure for Requesting Funding**

36

37 For consistency with the definition of "private partner," renumbered as §803.2(4), the
38 Commission adopts the amendment of current §803.14(a) and §803.14(c) to remove the
39 term "prospective." Additionally, references to a "joint" proposal in §803.14(a) and
40 §803.14(b) are removed to eliminate confusion with references to "concurrent" proposals.
41 Further, in §803.14(a) regarding applicable Boards reviewing and commenting on Skills
42 Development Fund proposals, it is the Commission's intent that "applicable" refer only to
43 the workforce areas where there would be a significant impact on job creation or
44 incumbent worker training. To ensure consistency with §803.14(a), which sets forth that
45 private partners or trade unions may partner with community colleges to receive grants

1 from the Skills Development Fund, a technical amendment is made to add the phrase "or
2 trade union" in §803.14(c), §803.14(f)(6), and §803.14(f)(9).

3
4 In addition, §803.14(c) is amended and streamlined to state that a training proposal shall
5 not duplicate a training project available in the workforce area in which the private
6 partner is located.

7
8 The Commission adopts new §803.14(d), which requires that proposals disclose other
9 grant funds sought or awarded from the Agency or other state or federal entities. This
10 information does not prevent or hinder consideration of applicants' proposals for Skills
11 Development Fund grants; rather it allows the Agency to provide technical assistance to
12 the applicants for locating additional funding sources that might be available, and to
13 better understand the total amount of funding for all training impacting the project.

14
15 **Comment:** One commenter stated that the purpose and administration of the Skills
16 Development Fund is strengthened by requiring applicants to disclose other
17 potential grant funds that might subsidize training projects.

18
19 **Response:** The Commission appreciates the commenter's support.

20
21 The Commission adopts new §803.14(e), which states that applicants shall indicate
22 whether they are submitting concurrent proposals for the Skills Development Fund and
23 the Texas Enterprise Fund. Concurrent proposal is defined in this section as (1) a
24 proposal for the Skills Development Fund that has been filed and is pending at the time
25 the applicant submits a proposal for the Texas Enterprise Fund, or (2) a proposal for the
26 Texas Enterprise Fund that has been submitted and is pending at the time the applicant
27 submits a proposal for the Skills Development Fund. The addition of this new subsection
28 reflects the direction in HB 2421, which does not allow an applicant to apply for both the
29 Skills Development Fund and the Texas Enterprise Fund unless the applicant files for
30 concurrent participation in both programs.

31
32 **Comment:** One commenter supported the proposed rule changes requiring
33 applicants to disclose whether they are submitting concurrent applications for the
34 Texas Enterprise Fund. The commenter also stated that because many companies
35 receiving Texas Enterprise Fund grants may not be contributing to the
36 Unemployment Insurance (UI) Fund—the main source of funding for the Skills
37 Development Fund—the Texas Enterprise Fund should compensate the Skills
38 Development Fund for training costs associated with companies that become dual
39 recipients.

40
41 **Response:** The Commission appreciates the commenter's support for the submission
42 of concurrent applications. HB 2421 amends Texas Labor Code §303.005 by
43 directing the Commission to require an applicant to disclose concurrent participation
44 in the Skills Development Fund and the Texas Enterprise Fund.

1 Payment into the UI Trust Fund is not an eligibility issue for the Skills Development
2 Fund. HB 2421 sets forth the funding strategies that encompass the Training
3 Stabilization Fund, the set-aside holding fund, the Skills Development Fund, and the
4 Texas Enterprise Fund. The new statute establishes certain percentage amounts to be
5 transferred to the Skills Development Fund and the Texas Enterprise Fund. The
6 training provided by the Skills Development Fund grants for new or existing jobs,
7 which encourage long-term employment opportunities, will generate new or increased
8 contributions to the UI Trust Fund.

9
10 The Commission adopts the amendment of §803.14 to add new §803.14(f)(11), which
11 requires that proposals include an indication of a concurrent proposal as set forth in
12 §803.14(e). Current §803.14(d)(11) is renumbered as §803.14(f)(12).

13
14 **Comment:** One commenter suggested the following revisions to the proposal
15 submission form criteria:

16
17 1. Delineate more clearly the current pay for each position and any anticipated
18 increases in wages.

19
20 **Response:** The Commission notes that current pay and wage increase data is
21 contained in §803.14(f)(4), which requires the occupation and wages for participants
22 who complete the customized training project.

23
24 2. Describe how the employer is involved in the planning and design of the proposed
25 project.

26
27 **Response:** The Commission notes that this information is contained in §803.2(1),
28 which defines customized training project. To further clarify, however, the
29 Commission adds to §803.14(f)(2) that the employer's involvement in the planning
30 and design of the proposed training project be outlined in the proposal submission
31 form.

32
33 3. Describe the employer's financial commitment.

34
35 **Response:** The Commission notes that this information is contained in §803.14(f)(5),
36 which requires a budget summary, disclosing anticipated project costs and resource
37 contributions, including the dollar amount the private partner is willing to commit to
38 the project.

39
40 4. Describe how the project will be delivered and staffed, including the roles of each
41 partner.

42
43 **Response:** The Commission notes that this information is contained in §803.14(f)(6),
44 which requires each entity's roles and responsibilities to be outlined if a grant is
45 awarded.

1 5. Include how trainees' progress will be measured and evaluated.
2

3 **Response:** The Commission notes that this information is contained in §803.14(f)(3),
4 which requires that proposals include a brief description of the measurable training
5 objectives and outcomes. However, the Commission amends §803.11 to clarify that
6 trainees' progress will be measured and evaluated prior to final payment at contract
7 closeout.
8

9 6. Include a section on sustainability and administration.
10

11 **Response:** The Commission believes that the intent of the commenter's suggestion is
12 to sustain the efforts of the training project once funding has ended. The Skills
13 Development Fund grants provide training to enhance the skills of employers'
14 existing workforce or attract individuals for new jobs. The Commission encourages
15 colleges and employers to utilize their own or other resources as needed to continue
16 to build the skill levels of their workforce to enhance the area's economic
17 competitiveness. While employers are not limited to one grant from the Skills
18 Development Fund, the grants are approved based on merit and other factors set forth
19 in statute and rule, including geographic distribution, and additional grants may not
20 be available.
21

22 7. Describe how the Board and workforce centers were involved in the project design
23 and how it will be coordinated locally.
24

25 **Response:** The Commission notes that this information is contained in §803.13(2),
26 which requires that projects be developed in collaboration with the Boards.
27

28 **§803.15. Procedure for Proposal Evaluation** 29

30 The Commission adopts §803.15(a) by adding a cross-reference to the uses of the funds
31 set forth in §803.3(a) to ensure that small businesses are a factor considered in the
32 proposal evaluation procedure. Additionally, for consistency with the definition of
33 private partner at §803.2(4) of this chapter, the Commission adopts §803.15(a) to remove
34 the term "prospective."
35

36 **General Comments on Subchapter B** 37

38 **Comment:** One commenter recommended the elimination of the additional 5%
39 administrative funds for projects that include more than one employer. The
40 commenter stated that this is inconsistent with other Commission-funded programs in
41 which the allowed administrative percentage remains constant regardless of the
42 number of entities involved.
43

44 **Response:** The Commission believes it is necessary to maintain its flexibility to
45 allow additional funds for overseeing the additional entities in a business consortium.
46 Management of these types of grants requires greater oversight on the part of the

1 training institution, including additional monitoring, technical assistance, site visits,
2 and coordination and tracking for performance.

3
4
5 **SUBCHAPTER C. PROGRAM ADMINISTRATION AFTER AWARD OF**
6 **CONTRACT**

7
8 **§803.31. Grant Recipient Responsibilities**

9
10 The Commission adopts the repeal of §803.31 in order to remove redundant
11 administrative processes and procedures from rule that are set forth in the Skills
12 Development Fund contracts.

13
14 **§803.32. Contract Completion Reports**

15
16 The Commission adopts the repeal of §803.32 in order to remove redundant
17 administrative processes and procedures from rule that are set forth in the Skills
18 Development Fund contracts.

19
20 **§803.33. Contract Payment**

21
22 The Commission adopts the repeal of §803.33 to remove redundant administrative
23 processes and procedures from rule that are set forth in the Skills Development Fund
24 contracts.

25
26 **§803.34. Notice to Texas Higher Education Coordinating Board**

27
28 The Commission adopts the repeal of §803.34 to remove redundant administrative
29 processes and procedures from rule that are set forth in Texas Labor Code §303.34 and in
30 the memorandum of understanding between the Agency and the Texas Higher Education
31 Coordinating Board regarding the Skills Development Fund.

32
33
34
35
36 **§803.35. Notice to Local Workforce Development Board**

37
38 The Commission adopts the repeal of §803.35 and adopts it as new §803.31, which
39 clarifies that the Agency shall inform a Board in the applicable workforce area of final
40 decisions concerning Skills Development Fund grants in the workforce area.

41
42 **Comment:** One commenter supported the requirement to inform the Board in the
43 applicable workforce area of final decisions concerning Skills Development Fund
44 grants. The commenter stated that Boards may benefit from being notified when a
45 Skills Development Fund application is pending or under review within or near
46 the applicable workforce area.

1
2 **Response:** The Commission appreciates the commenter's support. As under the
3 prior rule, the Commission will notify a Board that has an approved Skills
4 Development Fund project in its workforce area. However, the Commission does not
5 intend to notify Boards in workforce areas near a funded project. Skills Development
6 Fund projects are for specific customized projects, and only Boards that are directly
7 impacted will be notified.

8
9 **§803.36. Waivers**

10
11 The Commission adopts the repeal of §803.36 and adopts it as new §803.32 to clarify that
12 in addition to the executive director, the executive director's designee also has the
13 authority to suspend or waive a section of this chapter that is not statutorily imposed, if
14 there is a showing of good cause and a finding that the public interest would be served by
15 such a suspension or waiver.

16
17 **General Comments on Chapter 803**

18
19 **Comment:** Two commenters expressed strong support for the proposed rules. One
20 commenter stated the amendments provide clarity and reduce unnecessary language
21 and the second commenter thanked the Commission for its support of the Skills
22 Development Fund.

23
24 **Response:** The Commission appreciates the commenters' support.

25
26
27 **PART III. COORDINATION ACTIVITIES**

28
29 In the development of these rules for publication and public comment, the Commission
30 sought the involvement of Texas' twenty-eight Boards and the Texas Association of
31 Workforce Boards (TAWB). During the development of the proposed rules, the
32 Commission considered the information gathered in order to develop rules that provide
33 clear and concise direction to the parties involved.

34
35
36 The Commission received public comments from:

37
38 State Representative Norma Chavez, Chair, House Committee on Border and
39 International Affairs

40 Bonnie Gonzales, ED, Lower Rio Grande Workforce Development Board

41 Mary Ross, ED, West Central Texas Workforce Development Board

42 Edelmiro Alaniz, GM, Worth McAllen Bolt & Screw Co.

43 Roy Arterbury, Call Center Director, Hotels.com

44 Al Beck, Vice President and General Manager, King's Prosperity, L.P.

45 Mario Bermudez, General Manager, Textape, Inc.

46 Boyd Cockrill, Owner, AEF Plating, LLC

1 Dean Conner, Owner, SGS Industrial
2 Ron Coronado, Operations Manager, Panasonic Corporation
3 Norma Diaz, President, Promos, Etc., Inc.
4 Paul Fielder, Operations, Sapphire Custom Manufacturing
5 Steven Frank, Area General Manager, Weyerhaeuser
6 Roberto Garcia, General Manager, HI-TEK Automation Supply
7 Mark Gibbs, Co-Owner, Rio Grande Container, Inc.
8 Frank Gomez, Senior Manager, Human Resources, Convergys
9 Ernesto Gonzales, President, ILP Label Printers
10 Steve Greer, Senior Vice President, TallyGenicom
11 Kyle Griffiths, General Manager, General Electric
12 Adriana Guerrero, Owner, Alpha XL Mold and Tool
13 Felix Guerrero, Moldmaker/Specialist, Alpha XL Mold and Tool
14 Julio Guerrero, Owner, Alpha XL Mold and Tool
15 James R. Hatton, President, Semco Manufacturing
16 Neal R. Heikkinen, Executive Vice President, Border Comm
17 Juan Hernandez, Branch Manager, Acetylene Oxygen Company
18 Liborio Hinojosa, CEO, H&H Foods
19 Ricardo Hinojosa, Vice President, D&R Precision Manufacturing, Inc.
20 Dan Ingersoll, PRC Manager, JVC Company of America, Product Return Center
21 Jeff Jones, Manager, Millard Refrigerated Services
22 Frank King, Vice President, U.S. Ops and Marketing, Am-Mex
23 Lorraine Kolenda, Vice President, K-10 Enterprizes, Inc.
24 Don Kurth, Operations Manager, ALPS Automotive, Inc.
25 Don Kurth, Operations Manager, Alpine Electronics of America
26 Kevin LaPorte, General Manager, Titan Plastics Group
27 Ted C. Link, President/CEO, Link & Associates, Inc.
28 Ronald Loidl, Senior Manager, Human Resources, Symbol Technologies
29 Erasmo P. Lozano, Quality Manager, Atlantis Plastics, Inc.
30 Felipe Marcio, President, DynaCal
31 Angela Miller, Business Analyst, Seagate Technology
32 Paula Moore, President, Reynolds International Equipment, L.P.
33 Sam Olivarez, President, Barrera's Supply Company, Inc.
34 Maria Patterson, Plant Manager, Gerber Manufacturing, Inc.
35 Judy Rodriguez, President/CEO, Texas Citrus Exchange
36 Henry Sanchez, Plant Manager, Hi-Tech Plastics Rio Grande
37 Stan J. Sawko, General Manager, Action Coil Spring Co., Inc.
38 Heriberto Solis, Vice President of Operations, Plastron Industries
39 Steve Stauffer, Director of Operations, Pennero Associates, Inc.
40 Gerald Stinson, Plant Manager, King's Prosperity L.P.
41 Lawrence R. Thompson, Jr., Sales Manager, Quality Screw and Nut Logistics
42 Noe Trevino, Plant Manager, Regency Plastics
43 Richard Vaughan, President, Burton Auto Supply
44 Michael Weaver, Director of Operations, Black and Decker
45 Mike Willis, Executive Director, South Texas Manufacturers Association
46 Stephen Wolf, Director, Global Operations, TI Automotive

1 Carlos Zambito, Marketing Director, McAllen Produce Terminal Market
2 Luis Zeledon, Plant Manager, Humanetics
3 Mike Allen, President & CEO, McAllen Economic Development Corporation
4 Don Baylor, Center for Public Policy Priorities
5 Thomas N. Applegate, Executive Dean, Austin Community College
6 Jerry Cash, Director of Economic Development, City of Cleburne
7 Paul J. Curtin, Project Manger, Hunt Valley Development I, LLC
8 Patty Ford, Training Coordinator, Kilgore College Workforce Development
9 Ramiro Garza, Jr., Executive Director, Edinburg Economic Development Corporation
10 Wanda Garza, South Texas College
11 Juan Gonzalez, Economic Development Director, City of Del Rio
12 Steve Hardy, Associate Vice President, Continuing Education and Workforce
13 Development, Collin County Community College District
14 Dr. Richard C. Jolly, Executive Vice President, Midland College
15 Andrew C. Jones, Ed.D., Vice Chancellor of Educational Affairs, The Dallas County
16 Community Colleges
17 Marie McDermott, President, Harlingen Area Chamber of Commerce
18 Mike Midgley, Vice President, Workforce Education and Business Development, Austin
19 Community College
20 Olivia Rodriguez, South Texas College
21 Pat Townsend, Jr., President/CEO, Mission Economic Development Authority, Inc.
22 Danny Uptmore, Corporate & Professional Training, McLennan Community College
23 Antonio Zavaleta, for U.T. Brownsville and Texas Southmost College
24 Dr. Frederico Zaragoza, Vice Chancellor, Professional Technical and Workforce
25 Education, Alamo Community College District
26
27 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which
28 provide the Texas Workforce Commission with the authority to adopt, amend, or repeal
29 such rules as it deems necessary for the effective administration of Agency services and
30 activities.
31
32 The adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302, as
33 well as Texas Labor Code, Chapter 303, regarding the Skills Development Fund.
34

1 **CHAPTER 803. SKILLS DEVELOPMENT FUND**

2
3 **SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE SKILLS**
4 **DEVELOPMENT FUND**

5
6 **§803.1. Scope and Purpose.**
7

- 8 (a) Purpose. The purpose of the Skills Development Fund is to enhance the
9 ability of public community and technical colleges and the Texas
10 Engineering Extension Service (TEEX) to respond to industry and workforce
11 training needs and to develop incentives for public community and technical
12 colleges, TEEX, or community-based organizations only in partnership with
13 the public community and technical colleges or TEEX to provide customized
14 assessment and training in a timely and efficient manner.
15
16 (b) Goal. The goal of the Skills Development Fund is to increase the skills level
17 and wages of the Texas workforce.
18

19 **§803.2. Definitions.**
20

21 In addition to the definitions contained in §800.2 of this title, the following words
22 and terms, when used in this chapter, shall have the following meanings unless
23 the context clearly indicates otherwise.
24

- 25 (1) Customized training project -- A project that:
26
27 (A) provides workforce training, with the intent of either adding to
28 the workforce or preventing a reduction in the workforce, and is
29 specifically designed to meet the needs and special requirements
30 of:
31
32 (i) employers and employees or prospective employees of the
33 private business or business consortium; or
34
35 (ii) members of the trade union; and
36
37 (B) is designed by a private business or business consortium, or trade
38 union in partnership with:
39
40 (i) a public community college;
41
42 (ii) a technical college;
43
44 (iii) TEEX; or
45

- 1 (iv) a community-based organization only in partnership with the
2 public community and technical colleges or TEEX.
3
- 4 (2) Grant recipient -- A recipient of a Skills Development Fund grant that
5 is:
6
7 (A) a public community college;
8
9 (B) a technical college;
10
11 (C) TEEX; or
12
13 (D) a community-based organization only in partnership with the
14 public community and technical colleges or TEEX.
15
- 16 (3) Non-local public community and technical college -- A public
17 community college or technical college providing training outside of its
18 local taxing district.
19
- 20 (4) Private partner -- A person, sole proprietorship, partnership,
21 corporation, association, consortium, or private organization that enters
22 into a partnership for a customized training project with:
23
24 (A) a public community college;
25
26 (B) a technical college;
27
28 (C) TEEX; or
29
30 (D) a community-based organization only in partnership with the
31 public community and technical colleges or TEEX.
32
- 33 (5) Public community college -- A state-funded, two-year educational
34 institution primarily serving its local taxing district and service area in
35 Texas and offering vocational, technical, and academic courses for
36 certification or associate's degrees.
37
- 38 (6) Public technical college -- A state-funded coeducational institution of
39 higher education offering courses of study in vocational and technical
40 education, for certification or associate's degrees.
41
- 42 (7) Texas Engineering Extension Service (TEEX) -- A higher education
43 agency and service established by the Board of Regents of the Texas
44 A&M University System.
45

- 1 (8) Trade union -- An organization, agency, or employee committee in
- 2 which employees participate and which exists for the purpose of
- 3 dealing with employers concerning grievances, labor disputes, wages,
- 4 rates of pay, hours of employment, or conditions of work.
- 5
- 6 (9) Training provider -- An entity or individual that provides training,
- 7 including:
- 8
- 9 (A) a public community college;
- 10
- 11 (B) a technical college;
- 12
- 13 (C) TEEX;
- 14
- 15 (D) a community-based organization only in partnership with the
- 16 public community college or technical college or TEEX; or
- 17
- 18 (E) a person, sole proprietorship, partnership, corporation,
- 19 association, consortium, governmental subdivision, or public or
- 20 private organization with whom a public community or technical
- 21 college or TEEX has subcontracted to provide training.
- 22

23 **§803.3. Uses of the Fund.**

- 24
- 25 (a) The Skills Development Fund may be used by a grant recipient as start-up or
- 26 emergency funds for the following purposes:
- 27
- 28 (1) to develop customized training projects for businesses and trade unions;
- 29 and
- 30
- 31 (2) to sponsor small and medium-sized business networks and consortiums
- 32 for the purpose of developing customized training.
- 33
- 34 (b) TEEX training activities shall focus on projects that are statewide or are not
- 35 available from a local public community and junior college district, a local
- 36 technical college, or a consortium of public community and junior college
- 37 districts. In developing such projects, TEEX may participate in a consortium
- 38 of public community and junior college districts or with a technical college
- 39 that provides training under Texas Labor Code, Chapter 303.
- 40
- 41 (c) Technical college training activities shall focus on projects that are not
- 42 available from a local public community college, except in the technical
- 43 college's local service area, and shall be encouraged to focus on projects that
- 44 are statewide.
- 45
- 46 (d) The Skills Development Fund may not be used:

- 1
2 (1) to pay the training costs and related costs of an employer that relocates
3 the employer's worksite from one place in Texas to another;
4
5 (2) for the purchase of any proprietary or production equipment required
6 for the training project of a single local employer;
7
8 (3) for wages for trainees; or
9
10 (4) to pay for trainee or instructor travel costs or trainee drug tests.
11
12 (e) The Skills Development Fund may not be used to pay for the lease of
13 equipment if any one of the following four criteria is characteristic of the
14 lease transaction:
15
16 (1) The lease transfers ownership of the equipment to the lessee at the end
17 of the lease term;
18
19 (2) The lease contains a bargain purchase option;
20
21 (3) The lease term is equal to 75% or more of the estimated economic life
22 of the leased equipment; or
23
24 (4) The present value of the minimum lease payments at the inception of
25 the lease, excluding executory costs, equals at least 90% of the fair
26 value of the leased equipment.
27

28 **SUBCHAPTER B. PROGRAM ADMINISTRATION**

29 **§803.11. Grant Administration.**

30 Grant recipients must enter into an agreement with the Agency to comply with
31 contract requirements that include, but are not limited to:
32

- 33
34 (1) submitting all required reports, including financial and performance
35 reports, in the format and time frame required by the Agency;
36
37 (2) maintaining fiscal data needed for independent verification of
38 expenditures of funds received for the customized training project;
39
40 (3) cooperating and complying with Agency monitoring activities as
41 required by Chapter 800, Subchapter H, of this title (relating to Agency
42 Monitoring Activities); and
43
44 (4) submitting contract completion reports:
45
46

- 1 (A) The final payment is contingent upon the executive director's, or
2 designee's, determination that a project has met the training
3 objectives, outcomes, and requirements (an attrition rate of up to
4 15% of the total number of trainees in the contract is allowed).
5
6 (B) The final payment of the contract will be withheld for 60 days
7 after the completion of training and after receipt by the Agency
8 of verification from the employer that the trainees are employed.
9

10 **§803.12. Limitations on Awards.**
11

12 The Agency may impose any or all of the following limitations on the amount of
13 funds awarded under any specific grant:
14

- 15 (1) A limit of \$500,000 for the training project of a single employer;
16
17 (2) A limit of 10% of the grant amount for the allowable purchase of any
18 proprietary or production equipment required for the training project;
19
20 (3) A limit of 10% for administrative costs related to direct training for the
21 training project of a single employer; or
22
23 (4) A limit of 15% for administrative costs related to direct training for the
24 training project of entities other than a single employer.
25

26 **§803.13. Program Objectives.**
27

28 The following are the program objectives in administering the Skills Development
29 Fund:
30

- 31 (1) To ensure that funds from the program are spent in all areas of this state
32 and expand the state's capacity to respond to workforce training needs;
33
34 (2) To develop projects in workforce areas through collaboration with the
35 Boards;
36
37 (3) To develop projects that, at completion of the training, will result in
38 wages equal to or greater than the prevailing wage of persons with
39 similar knowledge and experience in that occupation in the local labor
40 market for the participants in the customized training project;
41
42 (4) To prioritize the processing of grant requests from workforce areas
43 where the unemployment rate is higher than the state's annual average
44 unemployment rate; and
45

- 1 (5) To sponsor creation and attraction of high-value, high-skill jobs for the
2 state that will facilitate the growth of industry and emerging
3 occupations.
- 4
- 5 (6) To the greatest extent practicable, the Agency will award Skills
6 Development Fund grants as follows:
7
 - 8 (A) Approximately 60% of the funds may be for job retention
9 training; and
 - 10
 - 11 (B) The remaining funds may be for training for job creation.
 - 12

13 **§803.14. Procedure for Requesting Funding.**

- 14
- 15 (a) After obtaining the review and comments of the Board in the applicable
16 workforce area(s), where there is a significant impact on job creation or
17 incumbent worker training, a private partner or a trade union, together with a
18 public community or technical college or TEEEX, shall present to the
19 executive director, or designee, a proposal requesting funding for a
20 customized training project or other appropriate use of the fund.
21
- 22 (b) TEEEX, or the public community or technical college that is a partner to a
23 training proposal for a grant from the Skills Development Fund, may be non-
24 local.
25
- 26 (c) The training proposal shall not duplicate a training project available in the
27 workforce area in which the private partner or trade union is located.
28
- 29 (d) Proposals shall disclose other grant funds sought or awarded from the
30 Agency or other state and federal entities for the proposed job training
31 project.
32
- 33 (e) Applicants shall indicate whether they are submitting concurrent proposals
34 for the Skills Development Fund and the Texas Enterprise Fund. For the
35 purposes of this subsection, "concurrent proposal" shall mean:
36
 - 37 (1) a proposal for the Skills Development Fund that has been submitted
38 and is pending at the time an applicant submits a proposal for the Texas
39 Enterprise Fund; or
 - 40
 - 41 (2) a proposal for the Texas Enterprise Fund that has been submitted and is
42 pending at the time an applicant submits a proposal for the Skills
43 Development Fund.
 - 44
- 45 (f) Proposals shall be written and contain the following information:
46

- 1 (1) The number of proposed jobs created and/or retained;
- 2
- 3 (2) A brief outline of the proposed training project, including the skills
- 4 acquired through training and the employer's involvement in the
- 5 planning and design;
- 6
- 7 (3) A brief description of the measurable training objectives and outcomes;
- 8
- 9 (4) The occupation and wages for participants who complete the
- 10 customized training project;
- 11
- 12 (5) A budget summary, disclosing anticipated project costs and resource
- 13 contributions, including the dollar amount the private partner is willing
- 14 to commit to the project;
- 15
- 16 (6) A signed agreement between the private partner or trade union and the
- 17 public community or technical college or TEEEX outlining each entity's
- 18 roles and responsibilities if a grant is awarded;
- 19
- 20 (7) A statement explaining the basis for the determination that there is an
- 21 actual or projected labor shortage in the occupation in which the
- 22 proposed training project will be provided that is not being met by an
- 23 existing institution or program in the workforce area;
- 24
- 25 (8) A comparison of costs per trainee for the customized training project
- 26 and costs for similar instruction at the public community or technical
- 27 college or TEEEX;
- 28
- 29 (9) A statement describing the private partner's or trade union's equal
- 30 opportunity employment policy;
- 31
- 32 (10) A list of the proposed employment benefits;
- 33
- 34 (11) An indication of a concurrent proposal as required by subsection (e) of
- 35 this section; and
- 36
- 37 (12) Any additional information deemed necessary by the Agency to
- 38 complete evaluation of a proposal.
- 39

40 **§803.15. Procedure for Proposal Evaluation.**

- 41
- 42 (a) The executive director, or designee, shall evaluate each proposal considering
- 43 the purposes listed in §803.3(a) of this subchapter, the program objectives
- 44 listed in §803.13 of this subchapter, and procedures in §803.14 of this
- 45 subchapter, along with the prevailing wage for occupations in the local labor
- 46 market area, the financial stability of the private partner, the regional

1 economic impact, and any other factors unique to the circumstances that the
2 Agency determines are appropriate.

3
4 (b) The Agency shall notify the Board in the applicable workforce area when the
5 Agency is evaluating a proposal so as to inform the Board of potential
6 workforce activities in the workforce area.

7
8 (c) If the Agency determines that a proposal is appropriate for funding through
9 the Skills Development Fund, the executive director, or designee, shall enter
10 into a contract with the grant recipient on behalf of the Agency.

11
12 **SUBCHAPTER C. PROGRAM ADMINISTRATION AFTER AWARD OF**
13 **CONTRACT**

14
15 **§803.31. Notice to Local Workforce Development Board.**

16
17 The Agency shall inform the Board in the applicable workforce area of final
18 decisions made regarding Skills Development Fund grants in the workforce area.

19
20 **§803.32. Waivers.**

21
22 The executive director, or designee, may suspend or waive a section of this
23 chapter, not statutorily imposed, in whole or in part upon a showing of good cause
24 and a finding that the public interest would be served by such a suspension or
25 waiver.
26