

**CHAPTER 804. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM**

**PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**

**ON AUGUST 23, 2016, THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

Estimated Publication Date of the Proposal in the *Texas Register*: **September 9, 2016**  
Estimated End of Comment Period: **October 10, 2016**

The Commission proposes amendments to the following sections of Chapter 804, relating to Jobs and Education for Texans (JET) Grant Program, as follows:

- Subchapter A. Definitions, §804.1
- Subchapter B. Advisory Board Composition, Meeting Guidelines, §§804.11 - 804.13
- Subchapter C. Grant Program, §§804.21 - 804.25
- Subchapter D. Grants to Educational Institutions for Career and Technical Education Programs, §804.41

The Commission proposes the repeal of the following section of Chapter 804, relating to the Jobs and Education for Texans (JET) Grant Program, as follows:

- Subchapter B. Advisory Board Composition, Meeting Guidelines, §804.14

- PART I. PURPOSE, BACKGROUND, AND AUTHORITY
- PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
- PART III. IMPACT STATEMENTS
- PART IV. COORDINATION ACTIVITIES

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

The purpose of the Chapter 804 rules is to comply with the requirements of House Bill (HB) 3062, enacted by the 84th Texas Legislature, Regular Session (2015), which transferred the administration of the Jobs and Education for Texans (JET) Grant Program from the Texas Comptroller of Public Accounts (Comptroller) to the Texas Workforce Commission (Agency) effective September 1, 2015. Per §8(a)(2) of HB 3062, the Comptroller's rules were transferred to the Agency and have been placed in 40 Texas Administrative Code, Chapter 804.

HB 3062 changed the makeup of the JET advisory board by removing a member of the public designated by the Comptroller and by designating the Chairman of the Agency's three-member Commission as presiding officer of the advisory board. The bill's primary purpose was to include independent school districts (ISDs) as eligible grantees.

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

### **SUBCHAPTER A. DEFINITIONS**

**The Commission proposes the following amendments to Subchapter A:**

#### **§804.1. Definitions**

Section 804.1(1) defines "Act." Based on a review of the JET rules transferred from the Comptroller, the Agency updates "Act" to properly reference HB 3062.

The previous §804.1(5) definition of "Comptroller" has been removed, as it is no longer applicable to this chapter.

New §804.1(5) defines "Developmental education." Based on a review of the JET rules transferred from the Comptroller, the Agency retains this definition and renumbers accordingly.

New §804.1(6) defines "Emerging industry." Based on a review of the JET rules transferred from the Comptroller, the Agency retains this definition and renumbers accordingly.

New §804.1(7) defines "High-demand occupation." Based on a review of the JET rules transferred from the Comptroller, the Agency retains this definition and renumbers accordingly, with slight modifications. The Agency proposes to amend this definition to state that the Agency may use specific factors to determine whether there is a substantial need for a particular profession, trade, or skill in occupations identified by the 28 Local Workforce Development Boards (Boards), i.e., Board-Area Target Occupations Lists and/or the Agency's labor market projections.

New §804.1(8) adds a new definition for "ISD" as an independent school district, per HB 3062, and is renumbered accordingly.

The definition in §804.1(9) of "in-kind contribution" is removed, as it no longer applies to this chapter.

New §804.1(9) retains the definition for "JET" and is renumbered accordingly.

New §804.1(10) defines "Notice of Availability or NOA." Based on a review of the JET rules transferred from the Comptroller, the Agency retains this definition, updating it to replace "Comptroller" with "Agency" pursuant to HB 3062, and renumbers accordingly.

New §804.1(11) defines "Public junior college." Based on a review of the JET rules transferred from the Comptroller, the Agency retains this definition, with a minor addition of the word "Texas" in reference to the "Education Code," and renumbers accordingly.

New §804.1(12) defines "Public technical institute." Based on a review of the JET rules transferred from the Comptroller, the Agency retains this definition, with a minor addition of the word "Texas" in reference to the "Education Code," and renumbers accordingly.

## **SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES**

**The Commission proposes the following amendments to Subchapter B:**

### **§804.11. Advisory Board Purpose and Composition**

Section 804.11(a) establishes the purpose of the advisory board. The Agency proposes to amend §804.11(a) to remove references to "Comptroller" and replace with "Agency."

Previous §804.11(b) designates the presiding officer of the JET advisory board as the Comptroller. The Agency proposes to replace with new §804.11(b)(1) - (6), adding the composition of the advisory board and modifying this section to reflect statutory language by replacing "Comptroller" with "Commission chair," consistent with HB 3062.

### **§804.12. Meetings Required**

Section 804.12(a) explains that the advisory board is required to meet at least once each quarter to review received applications and recommend awarding grants to public junior colleges and public technical institutes. The Agency proposes to amend this subsection to reflect the changes enacted by HB 3062, including allowing the advisory board to meet "as needed," and adding ISDs as eligible grantees.

### **§804.13. General Advisory Board Responsibilities**

Section 804.13 states that the advisory board is responsible for providing advice and recommendations to the Comptroller. The Agency proposes amendments to reflect changes in statutory language, including changing "Comptroller" to "Agency" in §804.13 and §804.13(2) and adding ISDs to §804.13(1).

### **§804.14. General Comptroller Responsibilities to the Advisory Board**

Section 804.14 is repealed because its provisions are duplicated in §804.11(b) and it now serves no substantive purpose.

## **SUBCHAPTER C. GRANT PROGRAM**

**The Commission proposes the following amendments to Subchapter C:**

### **§804.21. General Statement of Purpose**

Section 804.21 sets forth the purpose for the JET program as awarding grants from the JET fund for the development of career and technical education programs at public junior colleges and public technical institutes that meet the requirements of Texas Education Code §134.006. The Agency proposes to amend Section 804.21 to add ISDs as eligible grantees and to include §134.007 of the Texas Education Code pertaining to ISDs in alignment with the statutory language in HB 3062.

**§804.22. Notice of Grant Availability and Application**

Section 804.22 of the rules transferred from the Comptroller contains an outdated reference to the "Comptroller." The Agency proposes to replace "Comptroller" with "Agency" to comply with §302.002 of the Texas Labor Code.

**§804.23. Grant Award and Acceptance**

Section 804.23 of the rules transferred from the Comptroller contains an outdated reference to the "Comptroller." The Agency proposes to replace "Comptroller" with "Agency" to comply with §302.002 of the Texas Labor Code.

**§804.24. Reporting Requirements**

Section 804.24 of the rules transferred from the Comptroller provides that a public junior college and public technical institute receiving a grant under this chapter must comply with all reporting requirements of the contract in a frequency and format determined by the Comptroller in order to maintain eligibility for grant payments. Failure to comply with the reporting requirements may result in termination of the grant award and the entity being ineligible for future grants under this chapter. The Agency proposes to amend §804.24 to add ISDs to the list of eligible grantees and to reference "Agency" instead of "Comptroller."

**§804.25. Enforcement**

Section 804.25(a) of the rules transferred from the Comptroller sets forth the requirement that grant funds must be used in compliance with the terms of the contract for the purposes designated in the contract or they will be subject to refund by the grantee, disqualification from receiving further funds under this chapter, or any other available legal remedies. If deemed appropriate, the grantee may also be referred to another department or agency including, but not limited to, the Attorney General's Office, the Comptroller's Criminal Investigation Division, or the Comptroller's Internal Audit Department. The Agency proposes to amend §804.25(a) to remove outdated references to "Comptroller" divisions and departments, and to reflect the Agency's oversight staff, including the State Auditor's Office and the Agency's Office of Investigations to align with the statutory language provided in HB 3062.

Section 804.25(b) of the rules transferred from the Comptroller states that the Comptroller or its designee may audit the use of funds. The Agency proposes to replace "Comptroller or the comptroller's designee" with "Agency" to comply with §302.002 of the Texas Labor Code.

**SUBCHAPTER D. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS**

**The Commission proposes the following amendments to Subchapter D:**

**§804.41. Grants for Career and Technical Education Programs**

Section 804.41(a) of the rules transferred from the Comptroller sets forth the guidelines for JET grants awarded to public junior colleges and public technical institutes for the development of career and technical education programs that meet the requirements of Texas Education Code §134.006 and Texas Government Code §403.356. The Agency

proposes to add ISDs to the list of eligible grantees and to include a cross-reference to Texas Education Code §134.007 pertaining to ISDs to align with the statutory language in HB 3062.

Section 804.41(c) of the rules transferred from the Comptroller states that in awarding a grant under this subchapter, the Comptroller shall primarily consider the potential economic returns to the state from the development of the career and technical education course or program. The Comptroller may also consider whether the course or program:

- (1) is part of a new, emerging industry or high-demand occupation;
- (2) offers new or expanded dual credit career and technical educational opportunities in public high schools; or
- (3) is provided in cooperation with other public junior colleges or public technical institutes across existing service areas.

The Agency proposes to amend this subsection by replacing references to "Comptroller" with "Agency."

Section 804.41(d) of the rules transferred from the Comptroller states that a grant recipient shall provide the matching funds as identified in its application.

- (1) Matching funds may be obtained from any source available to the college, including industry consortia, community or foundation grants, individual contributions, and local governmental agency operating funds.
- (2) A grant recipient's matching share may consist of one or more of the following contributions:
  - (A) cash;
  - ~~(B) in-kind contributions or equipment use;~~
  - (B) equipment, equipment use, materials, or supplies;
  - (C) personnel or curriculum development cost; and/or
  - (D) administrative costs that are directly attributable to the project.
- (3) The matching funds must be expended on the same project for which the grant funds are provided and valued in a manner acceptable or as determined by the comptroller.

The Agency proposes to amend this section to align with the statutory language provided in HB 3062 by removing "in-kind contributions or equipment use" from the list of allowable matching contributions, relettering this section, and replacing references to "Comptroller" with "Agency".

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

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

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

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

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

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

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

There is no anticipated adverse economic impact on small or microbusinesses as a result of enforcing or administering the rules.

#### Economic Impact Statement and Regulatory Flexibility Analysis

The Agency has determined that the proposed rules will not have an adverse economic impact on small businesses as these proposed rules place no requirements on small businesses.

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

Reagan Miller, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to ensure that public junior colleges, public technical institutes, and ISDs that meet the requirements of Texas Education Code §134.006 and §134.007 have opportunities through the JET grant program to develop new career and technical education programs or to enhance existing career and technical education programs.

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

#### **PART IV. COORDINATION ACTIVITIES**

In the development of these rules for publication and public comment, the Commission sought the involvement of Texas' 28 Boards. The Commission provided the policy concept regarding these rule amendments to the Boards for consideration and review on May 31, 2016. The Commission also conducted a conference call with Board executive directors and Board staff on June 10, 2016, to discuss the policy concept. During the rulemaking process, the Commission considered all information gathered in order to develop rules that provide clear and concise direction to all parties involved.

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to (512) 475-3577; or e-mailed

to [TWCPolicyComments@twc.state.tx.us](mailto:TWCPolicyComments@twc.state.tx.us). Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The rules are proposed 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.

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

## CHAPTER 804. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM

### SUBCHAPTER A. DEFINITIONS

#### §804.1. Definitions.

The following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Act--~~This term has the meaning given in Education Code, Chapter 134, as adopted by House Bill 3, 81st Legislature, 2009, and House Bill 437, 83rd Legislature, 2013.~~ [relating to the Jobs and Education for Texans Grant Program in Texas Education Code, Chapter 134.](#)
  - (2) Advisory board--The advisory board of education and workforce stakeholders created pursuant to the Act.
  - (3) Career and technical education--Organized educational activities that offer a sequence of courses that:
    - (A) provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in high-demand occupations or emerging industries;
    - (B) includes competency-based applied learning that contributes to the academic knowledge, problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual; or
    - (C) provides a license, a certificate, or a postsecondary degree.
  - (4) Certificate or degree completion--Any grouping of workforce or technical courses in sequential order that, when satisfactorily completed by a student, will entitle the student to a Texas Higher Education Coordinating Board ~~(THECB)~~ [\(Coordinating Board\)](#)--approved certificate or associate degree from a public technical institute or public junior college.
- ~~(5) Comptroller--The Comptroller of Public Accounts.~~
- [\(5\)](#) ~~(6)~~ Developmental education--Structured courses, tutorials, laboratories, or other proven instructional efforts that successfully prepare students for college level (and therefore work-ready) courses as measured by

passing the state-required college entrance exam (or meeting the Texas Success Initiative requirements).

~~(6)(7)~~ Emerging industry--A growing, evolving or developing industry based on new technological products or concepts.

~~(7)(8)~~ High-demand occupation--A job, profession, skill, or trade for which employers within the State of Texas generally, or within particular regions or cities of the state, have or will have a substantial need. In determining whether there is or will be a substantial need for a particular job, profession, trade, or skill, the Agency comptroller may consider: ~~(A)—occupations identified by the 28 Local Workforce Development Boards (Board-Area Target Occupations Lists)~~ the list of high demand occupations and/or the Agency's ~~its~~ labor market projections;

~~(B)—whether the occupation has been targeted for Workforce Investment Act (WIA) training as a result of employer or community input; or~~

~~(C)—research, projections, or workforce data that are compiled by the comptroller or derived from one of the following sources:~~

~~(i) the Texas Workforce Commission;~~

~~(ii) the United States Department of Labor; or~~

~~(iii) another source, such as a letter from employers, which provides evidence that a particular job, profession, skill, or trade will provide potential economic benefits to the state or a local or regional area within the state.~~

~~(9)—In kind contribution—A cash value placed on a non-monetary contribution or investment.~~

(8) ISD--Independent school district.

~~(9)(10)~~ JET--The Jobs and Education for Texans Grant Program.

~~(10)(11)~~ Notice of Availability or NOA--The notice of availability that is published by the Agency comptroller pursuant to §804.22 ~~§8.22~~ of this title (relating to Notice of Grant Availability and Application).

~~(11)(12)~~ Public junior college--Any junior college certified by the Texas Higher Education Coordinating Board ~~(THECB)~~ (Coordinating Board) in accordance with Texas Education Code §61.003.

~~(12)(13)~~ Public technical institute--The Lamar Institute of Technology or the Texas State Technical College System, as in accordance with Texas Education Code §61.003.

## **SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES**

### **§804.11. Advisory Board Purpose and Composition.**

(a) The advisory board shall assist the Agency comptroller in administering ~~the Jobs and Education for Texans (JET) Grant Program~~JET.

~~(b) The comptroller is the presiding officer of the board.~~

(b) The advisory board is composed of six members who serve two-year terms, and are appointed as follows:

- (1) one member appointed by the governor;
- (2) one member appointed by the lieutenant governor;
- (3) one member appointed by the speaker of the house of representatives;
- (4) one member appointed by the Coordinating Board;
- (5) one member appointed by the Commission; and
- (6) the Commission chair, who serves as the presiding officer.

### **§804.12. Meetings Required.**

(a) The advisory board is required to meet at least once each quarter, or as needed, to review received applications and recommend awarding grants under this chapter to public junior colleges, public technical institutes, and ISDs. ~~to public junior colleges and public technical institutes.~~

~~(b) Meetings may be called at the request of the board's presiding officer.~~

(b)(e) Meetings shall be subject to the requirements of the Open Meetings Act.

### **§804.13. General Advisory Board Responsibilities.**

The advisory board shall provide advice and recommendations to the Agency comptroller on:

- (1) the manner in which public junior colleges, ~~and~~ public technical institutes, and ISDs apply for ~~Jobs and Education for Texans (JET) Grant Program~~JET grants; and
- (2) the JET grants to be awarded by the Agency ~~comptroller~~.

~~§804.14. General Comptroller Responsibilities to the Advisory Board.~~

~~The comptroller serves as presiding officer of the board. The presiding officer shall perform all duties and responsibilities imposed by law and in this chapter.~~

**SUBCHAPTER C. GRANT PROGRAM**

**§804.21. General Statement of Purpose.**

In accordance with the Act, the Agency ~~comptroller~~ establishes ~~the Jobs and Education for Texans (JET) Grant Program~~JET, which shall be administered pursuant to the Act and the rules in this chapter to award grants from the JET fund for the development of ~~new~~ career and technical education programs at public junior colleges, ~~and~~ public technical institutes, and ISDs that meet the requirements of Texas Education Code, §134.006 and §134.007.

**§804.22. Notice of Grant Availability and Application.**

- (a) From time to time, the Agency ~~comptroller~~ may publish a Notice of Availability (NOA) of grant funds under this chapter. The notice shall be published in the *Texas Register* and on the Agency's website~~comptroller's Web site~~. In addition to the respective purpose for each grant program under this chapter, the notice may include:
  - (1) the total grant funds available for award;
  - (2) the minimum and maximum amount of grant funds available for each grant recipient;
  - (3) eligibility criteria;
  - (4) application requirements;
  - (5) grant award and evaluation criteria;
  - (6) any grant requirements in addition to those set forth in this chapter;
  - (7) the date by which the application must be submitted to the Agency ~~comptroller~~;

- (8) the anticipated date of grant awards; and
  - (9) any other information or instructions necessary and appropriate for awarding the grant as determined by the Agency comptroller.
- (b) To be eligible for a grant award, an applicant meeting the eligibility criteria identified in the NOA shall submit an application in the form and manner as prescribed by the Agency comptroller in the NOA.
- (c) The Agency comptroller may request additional information at any time prior to grant award in order to effectively evaluate any application.

**§804.23. Grant Award and Acceptance.**

- (a) To award a grant, the Agency comptroller shall provide a grant contract to the grant recipient that shall contain all the terms and conditions for the use of the grant funds.
- (b) To receive grant funds, an applicant must execute and return the contract to the Agency comptroller's office.

**§804.24. Reporting Requirements.**

A public junior college, ~~or~~ public technical institute, or ISD receiving a grant under this chapter must comply with all reporting requirements of the contract in a frequency and format determined by the Agency comptroller in order to maintain eligibility for grant payments. Failure to comply with the reporting requirements may result in termination of the grant award and the entity being ineligible for future grants under this chapter.

**§804.25. Enforcement.**

- (a) Grant funds must be used in compliance with the terms of the contract for the purposes designated in the contract or will be subject to refund by the grantee, disqualification from receiving further funds under this chapter, or any other available legal remedies. If deemed appropriate, the grantee may also be referred to another department or agency including, but not limited to, the State Auditor's Office and the Agency's Office of Investigations ~~the Attorney General's Office, the Comptroller's Criminal Investigation Division, or the Comptroller's Internal Audit Department.~~
- (b) The Agency comptroller ~~or the comptroller's designee~~ may audit the use of funds.

**SUBCHAPTER ED. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS**

#### §804.41. Grants for Career and Technical Education Programs.

- (a) This subchapter is applicable to ~~the Jobs and Education for Texans (JET) Grant Program~~ awards to public junior colleges, ~~and~~ public technical institutes, and ISDs for the development of career and technical education programs that meet the requirements of Texas Education Code, §§134.006 - 134.007 and Texas Government Code, §403.356.
- (b) A grant received under this subchapter may be used only:
  - (1) to support courses or programs that prepare students for career employment in occupations that are identified by local ~~business~~ businesses as being in high demand;
  - (2) to finance the initial costs of career and technical education courses or program development, including the costs of purchasing equipment, and other expenses associated with the development of an appropriate course; and
  - (3) to finance a career and technical education course or program that leads to a license, certificate, or postsecondary degree.
- (c) In awarding a grant under this subchapter, the Agency ~~comptroller~~ shall primarily consider the potential economic returns to the state from the development of the career and technical education course or program. The Agency ~~comptroller~~ may also consider whether the course or program:
  - (1) is part of a new, emerging industry or high-demand occupation;
  - (2) offers new or expanded dual-credit career and technical educational opportunities in public high schools; or
  - (3) is provided in cooperation with other public junior colleges or public technical institutes across existing service areas.
- (d) A grant recipient shall provide the matching funds as identified in its application.
  - (1) Matching funds may be obtained from any source available to the college, including ~~in-kind contributions~~, industry consortia, community or foundation grants, individual contributions, and local governmental agency operating funds.
  - (2) A grant recipient's matching share may consist of one or more of the following contributions:

(A) cash;

~~(B) in-kind contributions or equipment use;~~

~~(B)~~~~(C)~~ equipment, equipment use, materials, or supplies;

~~(C)~~~~(D)~~ personnel or curriculum development cost; and/or

~~(D)~~~~(E)~~ administrative costs that are directly attributable to the project.

(3) The matching funds must be expended on the same project for which the grant funds are provided and valued in a manner acceptable or as determined by the Agency~~comptroller~~.