

1 **Skills Development Fund Rule Amendments**
2 **Policy Concept**

3 ***House Bill 700***

4 **Background**

5 House Bill (HB) 700, 86th Texas Legislature, Regular Session (2019), amended sections of
6 Chapter 303 of the Texas Labor Code related to the Skills Development Fund (SDF). The bill
7 amended §303.001(a) to add Local Workforce Development Boards (Boards) to the list of
8 entities that are eligible to use SDF grants as an incentive to provide customized assessment and
9 training.

10 HB 700 also amended §303.003(b) to add Boards to the list of entities that can use SDF grants
11 specifically to:

- 12 • develop customized training programs for businesses and trade unions; and
- 13 • sponsor small and medium-sized business networks and consortiums.

14 **Issue: Inclusion of Boards as Eligible Applicants for SDF Grants**

15 To reflect the addition of Boards as eligible applicants for SDF grants requires amending the
16 Texas Workforce Commission (TWC) Chapter 803 Skills Development Fund rules in the:

- 17 • scope and purpose of SDF grants;
- 18 • definition of:
 - 19 ➤ an entity eligible to design customized training projects in partnership with a private
 - 20 entity; and
 - 21 ➤ a grant recipient;
- 22 • uses of SDF grants; and
- 23 • procedures for requesting SDF grants.

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

- 29 • as an incentive to provide customized training;
- 30 • to develop customized training; and
- 31 • to sponsor small and medium-sized business networks and consortiums for job training
32 purposes.

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34 Chapter 303 does not state that Boards must provide the training directly and, therefore, does not
35 conflict with the Texas Government Code §2308.264 prohibition of Boards directly providing
36 workforce training services.

37 **Decision Point**

38 Staff seeks direction on amending Chapter 803 to include Boards as eligible SDF grant
39 applicants.

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1 ***Grant Applicant Collaboration with Boards in the Development of SDF Projects***

2 **Background**

3 A program objective of the SDF, as stated in §803.13(2), is for SDF grant applicants to
4 collaborate with Boards in developing projects in workforce areas. To support this objective,
5 Chapter 803 includes requirements designed to ensure collaboration among grant applicants and
6 Boards. Section 803.14(a) requires applicants to obtain comments from the Board in the
7 applicable workforce area where there is a significant impact on job creation or incumbent
8 worker training. Additionally, §803.15 requires TWC to notify the Board in the applicable
9 workforce area when TWC is evaluating a proposal, to inform the Board of potential workforce
10 activities in the workforce area.

11 **Issue: Collaboration among Grant Applicants**

12 Collaboration among grant applicants and Boards during the SDF project development review
13 and evaluation process is beneficial to ensure that the needs of local industry and the workforce
14 are being met effectively and efficiently. Collaboration among separate grant applicants during
15 the project development phase ensures that potential SDF projects do not provide duplicative
16 services.

17 However, with the passage of HB 700 allowing Boards to apply for SDF grants, non-Board grant
18 applicants may have concerns about requiring another potential grant applicant to review and
19 comment on the application before submitting it to TWC—specifically that this may appear to
20 provide a Board with a potential advantage in the development of the Board’s SDF application.

21 **Decision Points**

22 Staff seeks direction on amending Chapter 803 to:

- 23 • remove the requirement that Boards review non-Board SDF applications before submission
24 to TWC; and
- 25 • add a requirement that TWC provide notification to all eligible SDF grant applicants upon
26 receipt of an application for an SDF grant.

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28 ***SDF Applicant Status with TWC***

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30 **Background**

31 Chapter 802, SubchapterG (Corrective Actions), allows TWC to impose corrective actions when
32 a Board or Agency grantee—defined in §802.2(1) to include SDF grantees—has failed to comply
33 with contract requirements. However, there is no requirement in state statute or TWC rule that
34 takes into consideration an SDF applicant’s past performance on a TWC-funded grant or contract
35 in evaluating and approving an SDF grant.

36 **Issue: Requiring SDF Applicants to Be in Good Standing with TWC**

37 Whether a Board or SDF grant recipient applying for an SDF grant that has been placed on
38 corrective action as outlined in Chapter 802, Subchapter G (Corrective Action) at the time of the
39 SDF grant application, should be a factor in evaluating the SDF grant application.

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1 **Decision Point**

2 Staff seeks direction on amending Chapter 803 to prohibit SDF applicants on corrective action as
3 described in Chapter 802, Subchapter G , from receiving an SDF grant.

4 *Use of the SDF to Encourage Employer Expansion and Recruitment*

5 **Background**

6 HB 108, 85th Texas Legislature, Regular Session (2017), amended Texas Labor Code Chapter
7 303 to add §303.0031 regarding the use of SDF grants to encourage employer expansion and
8 recruitment. The section allows SDF grants to provide “an intensive and rapid response to, and
9 support services for, employers expanding in or relocating their operations to this state, with a
10 focus on recruiting employers that will provide complex or high-skilled employment
11 opportunities in this state.”

12 Grants funded under §303.0031 may be used to:

- 13 • provide leadership and direction to, and connections among, out-of-state employers,
14 economic development organizations, Boards, public junior colleges, and public technical
15 institutes to support employers’ recruitment and hiring for complex or high-skilled
16 employment positions as necessary to facilitate the employers’ relocation to or expansion of
17 operations in Texas; and
- 18 • award grants to a public junior college or public technical institute providing workforce
19 training and related support services to employers that commit to establishing a place of
20 business in Texas.

21 Grants funded under §303.0031 must be used only to:

- 22 • develop:
 - 23 ➤ customized workforce training programs for an employer’s specific business needs;
 - 24 ➤ fast-tracked curriculum;
 - 25 ➤ workforce training–related support services for employers; and
 - 26 ➤ the instructor certification necessary to provide workforce training; and
- 27 • acquire training equipment necessary for instructor certification and employment.

28 Section 303.0031 also requires that TWC’s executive director, or appointee who is
29 knowledgeable in the administration of grants, be responsible for the distribution of grant money.

30 Section 303.0031 allows TWC to solicit and accept gifts, grants, and donations from any public
31 or private source for the purpose of providing SDF grants under this section.

32 Section 303.0031 also allows TWC to require, as a condition of receiving funds under this
33 section, that a grant recipient agree to repay the amount received and any related interest if TWC
34 determines that the funds were not used for the purposes for which they were awarded.

35 Finally, §303.0031 prohibits SDF grants under this section from being used to pay for training or
36 other related costs for an employer to relocate its work site from one location in Texas to
37 another.

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1 **Issue: Including Recruitment and Expansion as an Allowable Use of the SDF**
2 Chapter 803 does not currently address the allowable use of SDF grants for employer expansion
3 and recruitment under §303.0031.

4 **Decision Point**
5 Staff seeks direction on amending Chapter 803 to include the provisions of §303.0031 regarding
6 the use of SDF grants for expansion and recruitment activities, including language to require that
7 grant recipients agree to repay amounts received, and any related interest, if the money was not
8 used for the purposes awarded.

9 ***Technical Amendments***

10 **Background**
11 There are several technical amendments necessary to align Chapter 803 with changes in statute
12 and other TWC rules.

13 **Issue: Changes to Skills Statute and TWC Rules**
14 In addition to including Boards as eligible grant applicants, HB 700 also amended Chapter 303 to
15 replace “Texas Engineering Extension Service” with “Texas A&M Engineering Extension
16 Service.”

17 Additionally, §803.11 states that SDF grant recipients are subject to Chapter 800, Subchapter H,
18 Agency Monitoring Activities. This subchapter has been moved to Chapter 802, Subchapter D,
19 and the citation in §803.11 must be updated accordingly.

20 **Decision Point**
21 Staff seeks direction on amending Chapter 803 to:
22 • replace language referencing “Texas Engineering Extension Service” with “Texas A&M
23 Engineering Extension Services”; and
24 • change the citation of Agency Monitoring Activities from Chapter 800 to Chapter 802.