

CHAPTER 810. LONE STAR WORKFORCE OF THE FUTURE FUND

ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF SECRETARY OF STATE.

ON **NOVEMBER 21, 2023**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Publication Date of the Adoption in the *Texas Register*: **December 8, 2023**
The Rules are Effective: **December 11, 2023**

The Texas Workforce Commission (TWC) adopts new Chapter 810, relating to the Lone Star Workforce of the Future Fund, comprising the following subchapters:

- Subchapter A. General Provisions Regarding the Lone Star Workforce of the Future Fund, §810.1 - §810.4
- Subchapter B. Advisory Board Composition, Meeting Guidelines, §810.11 - §810.13
- Subchapter C. Program Administration, §810.21 - §810.28

New §§810.1, 801.3, 810.4, 810.11 - 810.13, and 810.21, and 810.23 - 810.28 are adopted *without changes* to the proposal, as published in the September 29, 2023, issue of the *Texas Register* (48 TexReg 5645), and, therefore, the adopted rule text will not be published.

New §810.2 and §810.22 are adopted *with changes* to the proposal, as published in the September 29, 2023, issue of the *Texas Register* (48 TexReg 5645), and, therefore, the adopted rule text will be published.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of implementing new Chapter 810 rules is to establish the Lone Star Workforce of the Future Fund and set forth TWC's procedures for administering the new grant program.

The 88th Texas Legislature, Regular Session (2023), passed House Bill (HB) 1755, which amended Texas Education Code, Title 3, Subtitle G, by adding Chapter 134A relating to the creation of the Lone Star Workforce of the Future Fund. HB 1755 tasks TWC with the establishment and administration of the Lone Star Workforce of the Future Fund as a dedicated account in the general revenue fund. Furthermore, HB 1755 requires TWC to adopt rules as necessary to administer this chapter.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE LONE STAR WORKFORCE OF THE FUTURE FUND

TWC adopts new Subchapter A, General Provisions Regarding the Lone Star Workforce of the Future Fund, as follows:

§810.1. Purpose and Goal

New §810.1(a) states the Lone Star Workforce of the Future Fund's purpose.

New §810.1(b) states the Lone Star Workforce of the Future Fund's goal.

§810.2. Definitions

New §810.2 sets forth the definitions for the Lone Star Workforce of the Future Fund rules.

New §810.2(4) has been changed from the proposal to give "eligible applicant" the same meaning as identified under Texas Education Code §134A.007.

Certain paragraphs in §810.2 have been rearranged in alphabetical order and renumbered accordingly.

§810.3. Uses of the Fund

New §810.3 details what a grant recipient shall use the money for.

§810.4. Waivers

New §810.31 sets forth the Executive's waiver authority.

SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

TWC adopts new Subchapter B, Advisory Board Composition, Meeting Guidelines, as follows:

§810.11. Advisory Board Purpose and Composition

New §810.11 provides the purpose of the advisory board and the appointing entities.

§810.12. Meeting Requirements

New §810.12 states the advisory board meeting requirements.

§810.13. Advisory Board Responsibilities

New §810.13 outlines the advisory board responsibilities.

SUBCHAPTER C. PROGRAM ADMINISTRATION

TWC adopts new Subchapter C, Program Administration, as follows:

§810.21. Statement of Purpose

New §810.21 explains the Lone Star Workforce of the Future Fund's purpose.

§810.22. Procedure for Requesting Funding

New §810.22 outlines the procedure in which grant applicants may request funding.

New §810.22 has been changed from the proposal to add that "eligible applicant" has the same meaning as identified under Texas Education Code §134A.007.

§810.23. Procedure for Proposal Evaluation

New §810.23 outlines the evaluation procedure for proposed workforce training projects.

§810.24. Grant Agreement Administration

New §810.24 outlines the administration of the agreement between the grant recipient and TWC.

§810.25. Limitation on Awards

New §810.25 outlines limitations the Commission may impose on awards.

§810.26. Program Objectives

New §810.26 details the Lone Star Workforce of the Future Fund's program objectives.

§810.27. Performance Benchmarks

New §810.27 details performance benchmarks that must be met by grant recipients.

§810.28. Reporting Requirements

New §810.28 details reporting requirements for grant recipients.

TWC hereby certifies that the rules have been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

PART III. PUBLIC COMMENTS

The public comment period closed on October 30, 2023.

TWC received comments from Year Up Austin.

COMMENT: Year Up Austin requested that TWC amend §810.1 to add language stating that public junior colleges, public technical institutes, and nonprofit organizations that administer workforce training programs demonstrate a history of and evidence of strong outcomes.

RESPONSE: The Commission appreciates the comment. However, Texas Education Code §134A.007 establishes grant eligibility. TWC has revised the proposed definition of "eligible applicant" to reflect the statutory requirements. TWC will review each grant application on a case-by-case basis and will ensure that applicants are adequately qualified to meet grant requirements.

COMMENT: Year Up Austin asked if §810.2 needs to include a definition of "nonprofit organization."

RESPONSE: The Commission appreciates the comment; however, the Commission intends on developing and utilizing a definition of a "nonprofit organization" as part of each grant cycle. No changes were made in response to this comment.

COMMENT: Year Up Austin recommended that TWC amend §810.4 so that waivers should be reviewed by the advisory board for input but leave the final decision with the Executive Director.

RESPONSE: As stated in §810.13, the advisory board shall provide advice and recommendations to the Commission on awarding grants under this chapter. The advisory board will not review individual applications. No changes were made in response to this comment.

COMMENT: Year Up Austin asked how the Commission Chair is appointed and by whom.

RESPONSE: The Governor of Texas appoints the Commission Chair. No changes were made in response to this comment.

COMMENT: Year Up Austin asked what the requirements referenced in §810.21 are for nonprofit organizations.

RESPONSE: Regarding which entities are eligible to receive a grant under this program, please refer to Texas Education Code Chapter 134A. No changes were made in response to this comment.

COMMENT: Year Up Austin asked if there is a list of high-growth career fields currently available to view, as referenced under §810.24(b).

RESPONSE: TWC will publish a list of high-growth career fields to this program's dedicated webpage following the formal rule adoption and Commission adoption of such a list. No changes were made in response to this comment.

COMMENT: Year Up Austin recommended that TWC amend §810.24(c)(1) to specify which reports are required by the applicant.

RESPONSE: Reporting requirements may vary from year to year. However, all reporting requirements will be included in the contract between TWC and the grant recipient. No changes were made in response to this comment.

COMMENT: Year Up Austin asked if there were additional limits on the grant amount that can be awarded other than those listed in §810.25.

RESPONSE: Neither the statute nor this proposed rule identifies a financial limit aside from the \$15,000 per training program participant. However, the Commission may adopt

limitations to the grant amount from time to time. No changes were made in response to this comment.

COMMENT: Year Up Austin recommended that TWC amend the rule by adding the following to the end of §810.26(2): "and promote enhanced educational and career mobility."

RESPONSE: The Commission appreciates the comment; however, this requested change is outside the scope of the proposed rulemaking. No changes were made in response to this comment.

COMMENT: Year Up Austin recommended that TWC amend §810.28(a) to specifically identify where the reporting requirement rules exist.

RESPONSE: Section 810.28 outlines reporting requirements that are defined by Texas Education Code Chapter 134A. However, additional reporting requirements and penalties may be enforced in the contract between TWC and the grant recipient. No changes were made in response to this comment.

PART IV. STATUTORY AUTHORITY

The rules are adopted under the specific authority of House Bill 1755, 88th Texas Legislature, Regular Session (2023), which enacted Texas Education Code §134A.012, which requires TWC to adopt rules necessary for the administration of Texas Education Code Chapter 134A.

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

CHAPTER 810. LONE STAR WORKFORCE OF THE FUTURE FUND

SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE LONE STAR WORKFORCE OF THE FUTURE FUND

§810.1. Purpose and Goal.

- (a) Purpose. The purpose of the Lone Star Workforce of the Future Fund is to develop workforce training programs that are administered by public junior colleges, public technical institutes, and nonprofit organizations to increase the supply of qualified workers for entry-level to mid-level jobs in high demand occupations in this state.
- (b) Goal. The goal of the Lone Star Workforce of the Future Fund is to ensure that the Texas workforce is capable of filling available and emerging jobs in this state that require less education than a bachelor's degree but more education than a high school diploma.

§810.2. Definitions.

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

- (1) Advisory board - the advisory board of education and workforce stakeholders created pursuant to the applicable statute.
- (2) Agency - the unit of state government established under Texas Labor Code Chapter 301 that is presided over by the Commission and administered by the Executive Director to operate the integrated workforce development system and administer the unemployment compensation insurance program in this state as established under the Texas Unemployment Compensation Act, Texas Labor Code, Title 4, Subtitle A, as amended. The definition of "Agency" shall apply to all uses of the term in rules contained in this part, unless otherwise defined, relating to the Texas Workforce Commission.
- (3) Commission - the body of governance of the Texas Workforce Commission composed of three members appointed by the governor as established under Texas Labor Code §301.002 that includes one representative of labor, one representative of employers, and one representative of the public. The definition of "Commission" shall apply to all uses of the term in rules contained in this part, unless otherwise defined, relating to the Texas Workforce Commission.

- (4) Eligible applicant - has the same meaning as identified under Texas Education Code §134A.007.
- (5) Executive Director - the Executive Director of the Texas Workforce Commission.
- (6) Grant recipient - a recipient of the Lone Star Workforce of the Future Fund.
- (7) Public junior college - any junior college certified by the Texas Higher Education Coordinating Board in accordance with Texas Education Code §61.003.
- (8) Public technical institute - the Lamar Institute of Technology or the Texas State Technical College System, in accordance with Texas Education Code §61.003.
- (9) Statute - Texas Education Code, Chapter 134A, Lone Star Workforce of the Future Fund.
- (10) Workforce training program - a program that provides performance-based workforce training that:
 - (A) leads to skill development and experiences required for employment in high demand occupations;
 - (B) are developed and provided based on consultation with and input from employers that are hiring in high demand occupations;
 - (C) create pathways to employment for program participants; and
 - (D) are delivered through classroom-based or online instruction, work-based experiences, internships or apprenticeships, or through a combination of those methods.

§810.3. Uses of the Fund.

An entity may use grant money received under this chapter only for:

- (1) curriculum development;
- (2) instructor fees and certifications;
- (3) training materials;
- (4) work-related expenses;

- (5) work-based experience stipends;
- (6) support services, deemed reasonable and necessary by the Agency, to help ensure training program participants' success; and
- (7) administrative costs not to exceed 10 percent of the total amount of grant money received by the entity.

§810.4. Waivers.

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

SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

§810.11. Advisory Board Purpose and Composition.

- (a) The advisory board is created to assist the Agency in administering the Lone Star Workforce of the Future Fund.
- (b) The advisory board comprises 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 Texas Higher Education Coordinating Board;
 - (5) one member appointed by the Commission; and
 - (6) the Commission Chair, who serves as the presiding officer.

§810.12. Meeting Requirements.

The advisory board is required to meet at least twice each calendar year, or as needed.

§810.13. Advisory Board Responsibilities.

The advisory board shall provide advice and recommendations to the Commission on awarding grants under this chapter.

SUBCHAPTER C. PROGRAM ADMINISTRATION

§810.21. Statement of Purpose.

In accordance with the statute, the Commission established the Lone Star Workforce of the Future Fund Grant Program, which shall be administered pursuant to the statute and this subchapter to award grants for the development of workforce training programs to public junior colleges, public technical institutes, and nonprofit organizations that meet the requirements of Texas Education Code, Chapter 134A, Lone Star Workforce of the Future Fund.

§810.22. Procedure for Requesting Funding.

An eligible applicant, as defined by Texas Education Code §134A.007, shall present to the Executive Director, or designee, an application for funding to acquire grant funds for the provision of workforce training as may be identified by the eligible applicant.

§810.23. Procedure for Proposal Evaluation.

- (a) The Executive Director, or designee, shall evaluate each proposal considering the purposes listed in §810.3 of this chapter, the program objectives listed in §810.26 of this subchapter, and the reporting requirements listed in §810.28 of this subchapter, and any other unique factors that the Agency determines are appropriate.
- (b) If the Agency determines that a proposal is appropriate for funding through the Lone Star Workforce of the Future Fund, the Executive Director, or designee, shall enter into a contract with the grant recipient on behalf of the Agency.

§810.24. Grant Agreement Administration.

- (a) An eligible applicant, as defined by Texas Education Code §134A.007, may apply for the grant program outlined in this section.
- (b) The Agency shall attach a list of high-growth career fields identified by the Agency, the Texas Workforce Investment Council, or the Tri-Agency Workforce Initiative established under Texas Government Code Chapter 2308A on the Agency's website and update the list annually.

- (c) Grant recipients must enter into an agreement with the Agency to comply with contract requirements that include, but are not limited to:
 - (1) submitting all required reports, including financial and performance reports, in the format and time frame required by the Agency;
 - (2) maintaining fiscal data needed for independent verification of expenditures of funds received for the training project;
 - (3) cooperating and complying with Agency monitoring activities as required by Chapter 802, Subchapter D, of this title (relating to Agency Monitoring Activities); and
 - (4) submitting contract completion reports:
 - (A) The final payment of the contract is contingent upon the Executive Director's, or designee's, determination that a project has met the performance benchmarks outlined in §810.27 of this subchapter.
 - (B) The final payment of the contract will be withheld for 60 days after the completion of training and after receipt by the Agency of verification from the employer that the trainees are employed.

§810.25. Limitations on Awards.

The Commission shall impose a limit per training program participant, not to exceed \$15,000 per participant, on the amount of funds awarded under any specific grant.

§810.26. Program Objectives.

The program objectives in administering the Lone Star Workforce of the Future Fund are:

- (1) to create and sustain a utilization-driven supply of qualified workers for entry-level to mid-level jobs in high demand occupations in this state;
- (2) to address skills needed by workers to obtain and retain employment;
- (3) to increase the interest of current and future Texans to fill the available and emerging jobs in this state that require less education than a bachelor's degree but more than a high school diploma; and

- (4) strengthen the state's economy by increasing competitiveness of businesses in this state and the recruitment of business of this state.

§810.27. Performance Benchmarks.

- (a) A grant recipient under this chapter must facilitate the successful transition of at least 50 percent of the entity's training program participants from low-wage work or unemployment to full-time employment in jobs offering a self-sufficient wage, as determined under Texas Government Code §2308A.012, and the opportunity for career mobility, as determined by the Agency, within six months of training program completion.
- (b) Should a grant recipient fail to meet the requirements of this section, the grant recipient shall reimburse the Agency on a pro rata basis based on the number of individuals successfully trained and placed.
- (c) A grant recipient is not required to comply with a performance benchmark required by this section if the Executive Director determines that the entity's compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the entity's control.

§810.28. Reporting Requirements.

- (a) A grant recipient must comply with all of the contract's reporting requirements in the frequency and format determined by the Agency 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 grant recipient's ineligibility for future grants under this chapter.
- (b) A grant recipient must submit a progress report to the Agency at least twice annually that includes:
 - (1) the number of participants;
 - (2) an update on its progress toward reaching its performance benchmarks;
 - (3) a description of any key accomplishments achieved, lessons learned, or setbacks or risks incurred in administering the training program;
 - (4) an explanation of any material changes to the training program's work plan, team, or budget; and
 - (5) the amount of grant money spent during the reporting period.