CHAPTER 800. GENERAL ADMINISTRATION

PROPOSED 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 THE SECRETARY OF STATE.

ON **JULY 27, 2026**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.

Estimated Publication Date of the Proposal in the *Texas Register*: August 7, 2026
Estimated End of Comment Period: September 7, 2026

The Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 800, relating to General Administration:

Subchapter A. General Provisions, §800.2
Subchapter B. Allocations, §§800.57, 800.58, and 800.68
Subchapter F. Interagency Matters, §800.201 and §800.205
Subchapter G. Petition for Adoption of Rules, §§800.251 - 800.255
Subchapter H. Vendor Protests, §800.301
Subchapter I. Enhanced Contract Monitoring, §§800.350 - 800.352
Subchapter L. Workforce Diploma Pilot Program, §800.502

TWC proposes the repeal of the following section of Chapter 800, relating to General Administration:

Subchapter B. Allocations, §800.69
Subchapter F. Interagency Matters, §§800.202 - 800.204

PART I. PURPOSE, BACKGROUND, AND AUTHORITY
The purpose of the proposed Chapter 800 rule change is to make technical, clarifying, and conforming updates throughout the chapter. These revisions modernize the text by repealing obsolete rules, updating references, and ensuring consistency across TWC's rules.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER A. GENERAL PROVISIONS
TWC proposes the following amendments to Subchapter A:

§800.2. Definitions
Section 800.2 is amended to update a reference to federal regulation in the definition of "Board," rearrange the order of the definitions of "Trade Act Services" and "Texas Workforce Investment Council," and make minor stylistic changes.

SUBCHAPTER B. ALLOCATIONS
TWC proposes the following amendments to Subchapter B:

§800.57. Employment Services
Section 800.57 is amended to better align Employment Services allocations with the flexibility TWC is granted by both federal and state laws, including Texas Labor Code, §302.062.

§800.58. Child Care
Section 800.58 is amended to refine the rule and require that the child care allocation must be sufficient to ensure that children eligible for the first priority group described in 40 TAC §809.43 are assured child care services. This section is also amended to align with Texas Government Code, §2308.317, regarding the minimum 2 percent of each Board child care allocation that must be used for quality child care initiatives.

§800.68. Adult Education and Literacy
Section 800.68 is amended to require grant funds be awarded to entities with demonstrated effectiveness through a competitive procurement process. This section is also amended to align with Texas Labor Code, §315.002(b-1), which states that the Commission will establish performance requirements that grant recipients must satisfy to qualify for a continuing award of funds based on achievement of enrollment targets and performance benchmarks as well as prioritizing funds to grant recipients who consistently satisfy those enrollment targets and performance benchmarks. Separately, Texas Labor Code, §315.007, requires that the Commission also establish criteria that support additional performance incentive funding for grant recipients who meet specific criteria annually.

§800.69. Integrated English Literacy and Civics Education Program
Section 800.69 is repealed because Adult Education and Literacy Integrated English Literacy and Civics Education grants are awarded based on procurement only, and no factor data allocations are performed. Grantees continue to be awarded the same proportional allocation each year of the contract grant based on available funds per Workforce Innovation and Opportunity Act, Section 243.

SUBCHAPTER F. INTERAGENCY MATTERS
TWC proposes the following amendments to Subchapter F:

§800.201. Title and Purpose
Section 800.201 is amended to more accurately describe the subchapter's purpose.

§800.202. Memorandum of Understanding with Texas Commission for the Deaf and Hard of Hearing
Section 800.202 is repealed because it is no longer statutorily required and, therefore, unnecessary. Texas Human Resources Code, §81.017(a), requires TWC and other state agencies to adopt an MOU to coordinate the delivery of services to people who are deaf or hard of hearing and reduce duplication of services. While the original statute, enacted by House Bill (HB) 550, 70th Texas Legislature, 1987, required the agencies to adopt the MOU by rule, HB 1401, 76th

Texas Legislature, Regular Session, 1999, removed that requirement.

§800.203. Memorandum of Understanding with Texas Education Agency
Section 800.203 is repealed because it is outdated and no longer statutorily required. HB 2823, 78th Texas Legislature, Regular Session, 2003, amended Texas Education Code, §29.011(a), to remove the requirement for an interagency MOU concerning transition planning for students enrolled in special education. Furthermore, the rule's reference to 19 TAC §89.1110 is obsolete, as that section has been repealed by the Texas Education Agency.

§800.204. Memorandum of Understanding with Texas Department of Economic Development
Section 800.204 is repealed because it is outdated and no longer statutorily required.

Senate Bill 275 (SB 275), 78th Texas Legislature, Regular Session, 2003, repealed Texas Government Code, §481.028, which had directed the Texas Department of Economic Development (TDED) to enter into memoranda of understanding with TWC.

SB 275 also abolished TDED and transferred its powers to the Office of the Governor (OOG).

Subsequently, OOG repealed its corresponding administrative rule, 10 TAC §195.2 (Memorandum of Understanding with the Texas Workforce Commission).

§800.205. Memoranda of Understanding with a Governmental Entity Pursuant to Texas Government Code §497.0596(a)(4)
Section 800.205 is amended to update the mailing address for requesting a copy of an MOU, make minor style and clarifying changes to the rule language, and replace "Memoranda" with "Memorandum" in the section title.

SUBCHAPTER G. PETITION FOR ADOPTION OF RULES
TWC proposes the following amendments to Subchapter G:

§800.251. Title and Purpose
Section 800.251 is renamed "Purpose" and amended to more accurately describe the subchapter's purpose.

§800.252. Definitions
Section 800.252 is amended to define "petition" and remove the definition for "Commission," because it is defined in §800.2(7).

§800.253. Submission and Petition Requirements
Section 800.253 is amended to clarify the minimum required contents of a petition.

§800.254. Review of Petition
Section 800.254 is amended to clarify that "days" means calendar days.

§800.255. Commission Decision and Action

Section 800.255 is amended to clarify when the Commission shall issue its final decision in response to a petition.

SUBCHAPTER H. VENDOR PROTESTS
TWC proposes the following amendments to Subchapter H:

§800.301. Vendor Protest Procedures
Section 800.301 is amended to add a designated email address as an acceptable way for a vendor to submit a formal protest to TWC.

SUBCHAPTER I. ENHANCED CONTRACT MONITORING
TWC proposes the following amendments to Subchapter I:

§800.350. Purpose and Scope
Section 800.350 is amended to add two more specific types of state agency contracts exempt from the enhanced monitoring provisions under Texas Government Code, §2261.253(c).

§800.351. Enhanced Contract Monitoring Policy
Section 800.351 is amended to change the name of the Regulatory Integrity Division to "Fraud Deterrence and Compliance Monitoring."

§800.352. Reporting of Enhanced Contract Monitoring
Section 800.352 is renamed "Reporting on Enhanced Contract Monitoring."

Section 800.352 is amended to refine TWC's enhanced contract monitoring reporting process, including the reporting of any contract with a total contract value exceeding $1 million, as required under Texas Government Code, §2261.254.

SUBCHAPTER L. WORKFORCE DIPLOMA PILOT PROGRAM
TWC proposes the following amendments to Subchapter L:

§800.502. Request for Qualifications and List of Qualified Providers
Section 800.502 is amended to add new §800.502(d) to specify that an approved provider does not need to reapply to participate in the Workforce Diploma Pilot program unless the provider has been removed from the list for not meeting the minimum performance standards for two consecutive calendar years.

PART III. IMPACT STATEMENTS
Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the proposed 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 proposed rules.

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

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

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

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

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking, as discussed elsewhere in this preamble, is to amend rules that were identified as requiring revision during the review of Chapter 800.

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

Government Growth Impact Statement

TWC has determined that during the first five years the proposed rules are in effect, the rules:
--will not create or eliminate a government program;
--will not require the creation or elimination of employee positions;
--will not require an increase or decrease in future legislative appropriations to TWC;
--will not require an increase or decrease in fees paid to TWC;
--will not create a new regulation;
--will not expand, limit, or eliminate an existing regulation;

--will not change the number of individuals subject to the rules; and
--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis
TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the proposed rules.

Les Trobman, General Counsel, has determined that the anticipated public benefit of the proposed rules will be updated rules that align with current statutory requirements and TWC practices and removal of obsolete rules from the Texas Administrative Code.

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

PART IV. REQUEST FOR IMPACT INFORMATION
TWC requests, from any person required to comply with the proposed rules or any other interested person, information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than September 7, 2026.

PART V. PUBLIC COMMENTS
Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than September 7, 2026.

PART VI. STATUTORY AUTHORITY
The rules are proposed under the following statutory authority:

Subchapter A
--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

The proposed rules are related to Texas Labor Code, Chapter 301.

Subchapter B
--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.
--Texas Labor Code, §302.002(d), which requires TWC to adopt rules as necessary for the administration of workforce programs.
--Texas Labor Code, §315.002(d), which allows TWC to adopt rules for the administration of adult education and literacy (AEL) programs.
--Texas Labor Code, §315.007(a), which requires TWC to adopt rules establishing a performance-based process for awarding funds for the provision of AEL services.

The proposed rules are related to Texas Labor Code, Chapters 302 and 315.

Subchapter F
--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.

The proposed rules are related to Texas Labor Code, Chapter 301.

Subchapter G
--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.
--Texas Government Code, §2001.021, which requires state agencies to adopt rules establishing procedures for a petition for rulemaking.

The proposed rules are related to Texas Government Code, Chapter 2001.

Subchapter H
--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.
--Texas Government Code, §2155.076, which requires state agencies to adopt rules for resolving vendor protests relating to purchasing issues.

The proposed rules are related to Texas Government Code, Chapter 2155.

Subchapter I
--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.
--Texas Government Code, §2261.253(c), which requires state agencies to adopt rules establishing a procedure to identify each contract that requires enhanced contract or performance monitoring.

The proposed rules are related to Texas Government Code, Chapter 2261.

Subchapter L
--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules necessary for the effective administration of TWC services and activities.
--Texas Labor Code, §302.002(d)
--Texas Labor Code, §317.008(a), which requires TWC to adopt rules establishing minimum performance standards for providers participating in the Workforce Diploma Pilot Program.

The proposed rules are related to Texas Labor Code, Chapters 302 and 317.

CHAPTER 800. GENERAL ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

§800.2. Definitions.

The following words and terms, when used in this part, relating to the Texas Workforce Commission, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Adult Education and Literacy (AEL)--Academic instruction and education services below the postsecondary level that increase an individual's ability to:

(A) read, write, and speak in English and perform mathematics or other activities necessary for the attainment of a secondary school diploma or its recognized equivalent;

(B) participate in job training and retraining programs or transition to postsecondary education and training; and

(C) obtain and retain employment.

(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) Allocation--The amount approved by the Commission for expenditures to a local workforce development area during a specified program year, according to specific state and federal requirements.

(4) Board--A Local Workforce Development Board created pursuant to Texas Government Code, §2308.253, and certified by the governor pursuant to Texas Government Code, §2308.261. This includes such a Board when functioning as the Local Workforce Investment Board as described in the Workforce Innovation and Opportunity Act (WIOA) §107 (29 USC §3122), including those functions required of a youth standing committee, as provided for under WIOA §107(i). The definition of Board shall apply to all uses of the term in the rules contained in this part, or unless otherwise defined, relating to the Texas Workforce Commission. Boards are subrecipients as defined in the Uniform Guidance under 2 Code of Federal Regulations (CFR) Part 200~~OMB Circular A-133~~.

(5) Child Care--Child care services funded through the Commission, which may include services funded under the Child Care and Development Fund, WIOA, and other funds available to the Commission or a Board to provide quality child care to assist families seeking to become independent from, or who are at risk of becoming dependent on, public assistance while parents are either working or participating in educational or training activities in accordance with state and federal statutes and regulations.

(6) Choices--The employment and training activities created under Texas Human Resources Code, §31.0126, ~~of the Texas Human Resources Code~~ and funded under Temporary Assistance for Needy Families (TANF) (42 USC 601 et seq.~~et.seq.~~) to assist individuals who are receiving temporary cash assistance, transitioning off, or at risk of becoming dependent on temporary cash assistance or other public assistance in obtaining and retaining employment.

(7) 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.

(8) Formal Measures--Workforce development services performance measures adopted by the governor and developed and recommended through the Texas Workforce Investment Council ~~(TWIC)~~.

(9) Employment Service--A program to match qualified job seekers with employers through a statewide network of one-stop career centers. (Wagner-Peyser Act of 1933 (Title 29 USC, Chapter 4B) as amended by WIOA (PL 113-128)).

(10) Executive Director--The individual appointed by the Commission to administer the daily operations of the Agency, which may include an individual delegated by the Executive Director to perform a specific function on behalf of the Executive Director.

(11) Historically Underutilized Business (HUB)--A business entity as defined in 34 Texas Administrative Code (TAC) §20.282 that is certified by the State of Texas, has not exceeded the standards for size established by 34 TAC §20.294, and has established Texas as its principal place of business.

(12) Local Workforce Development Area (workforce area)--Workforce areas designated by the governor pursuant to Texas Government Code, §2308.252, and functioning as a Local Workforce Investment Area, as provided for under

WIOA §106 and §189(i)(1) (29 USC §3121 and §3249).

(13) One-Stop Service Delivery Network--A one-stop--based network under which entities responsible for administering separate workforce investment, educational, and other human resources programs and funding streams collaborate to create a seamless network of service delivery that shall enhance the availability of services through the use of all available access and coordination methods, including telephonic and electronic methods--also known as Texas Workforce Solutions.

(14) Performance Measure--An expected performance outcome or result.

(15) Performance Target--A contracted numerical value setting the acceptable and expected performance outcome or result to be achieved for a performance measure, including Core Outcome Formal Measures. Achievement between 95 and 105 percent of the established target is considered meeting the target.

(16) Program Year--The twelve-month period applicable to the following as specified:

(A) Child Care: October 1 - September 30;

(B) Choices: October 1 - September 30;

(C) Employment Service: October 1 - September 30;

(D) Supplemental Nutrition Assistance Program Employment and Training: October 1 - September 30;

(E) Workforce Innovation and Opportunity Act (WIOA) Vocational Rehabilitation: October 1 - September 30;

(F) Trade Act services: October 1 - September 30;

(G) WIOA Adult, Dislocated Worker, and Youth formula funds: July 1 - June 30;

(H) WIOA Alternative Funding for Statewide Activities: October 1 - September 30;

(I) WIOA Alternative Funding for One-Stop Enhancements: October 1 - September 30; and

(J) WIOA, Adult Education and Literacy: July 1 - June 30.

(17) Supplemental Nutrition Assistance Program Employment and Training (SNAP

E&T)--A program to assist SNAP recipients to become self-supporting through participation in activities that include employment, job readiness, education, and training, activities authorized and engaged in as specified by federal statutes and regulations (7 USC §2011), and Chapter 813 of this title~~ relating to Supplemental Nutrition Assistance Program Employment and Training~~.

(18) TANF--Temporary Assistance for Needy Families, which may include temporary cash assistance and other temporary assistance for eligible individuals, as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended (7 USC §2011 et seq.) and the TANF statutes and regulations (42 USC §601 et seq.~~)~~, and 45 CFR~~Code of Federal Regulations (CFR)~~ Parts 260 - 265). TANF may also include the TANF State Program (TANF SP), relating to two-parent families, which is codified in Texas Human Resources Code, Chapter 34.

~~(19) Trade Act Services--Programs authorized by the Trade Act of 1974, as amended (and 20 CFR Part 617) providing services to dislocated workers eligible for Trade benefits through Workforce Solutions Offices.~~

(19)~~(20)~~ Texas Workforce Investment Council (TWIC)--Appointed~~Texas Workforce Investment Council, appointed~~ by the governor pursuant to Texas Government Code, §2308.052, and functioning as the State Workforce Investment Board, as provided for under WIOA §101(e) (29 USC §3111(e). Additionally~~In addition~~, pursuant to WIOA §193(a)(5) (29 USC §3253(a)(5)), TWIC maintains the duties, responsibilities, powers, and limitations as provided in Texas Government Code, §§2308.101 - 2308.105.

(20) Trade Act Services--Programs authorized by the Trade Act of 1974, as amended (and 20 CFR Part 617) providing services to dislocated workers eligible for Trade benefits through Workforce Solutions Offices.

(21) WIOA--Workforce Innovation and Opportunity Act--(PL 113 - 128, 29 USC §3101 et seq.). References to WIOA include references to WIOA formula-allocated funds unless specifically stated otherwise.

(22) WIOA Formula-Allocated Funds--Funds allocated by formula to workforce areas for each of the following separate categories of services: WIOA adult, dislocated worker, and youth (excluding the secretary's and governor's reserve funds and rapid response funds).

(23) Workforce Solutions Offices Partner--An entity that carries out a workforce investment, educational, or other human resources program or activity, and that participates in the operation of the One-Stop Service Delivery Network in a workforce area consistent with the terms of a memorandum of understanding entered into between the entity and the Board.

Subchapter B. ALLOCATIONS

§800.57. Employment Services.

(a) Employment Services funds available to the Commission to provide Employment Services under §7(a) of the Wagner-Peyser Act (29 USCA~~U.S.C.A.~~ Chapter 4B) will be utilized by the Commission as set forth in subsection (b) of this section.

(b) At least 80 percent ~~80%~~ of the Employment Services funds available to local workforce areas under §7(a) of the Wagner-Peyser Act (29 USCA~~U.S.C.A.~~ Chapter 4B, including §49(c)) will be utilized by the Commission within the workforce areas according to the established federal formula, as follows:

(1) Two-thirds will be based on the relative proportion of the total civilian labor force residing within the workforce area to the statewide total civilian labor force~~.~~;

(2) One-third will be based on the relative proportion of the total number of unemployed individuals residing within the workforce area to the statewide total number of unemployed individuals; and

(3) the application of a hold harmless/stop gain procedure.

(c) No more than 10 percent ~~10%~~ of the funds expended as part of a workforce area's allocation shall be used for administrative costs, as defined by appropriate federal regulations and Commission policy.

§800.58. Child Care.

(a) Funds available to the Commission for child care services will be allocated to the workforce areas using need-based formulas, as set forth in this section.

(b) Child Care and Development Fund (CCDF) Mandatory Funds authorized under the Social Security Act, §418(a)(1), as amended, together with state general revenue Maintenance of Effort (MOE) Funds, Social Services Block Grant funds, TANF funds, and other funds designated by the Commission for child care (excluding any amounts withheld for state-level responsibilities) will be allocated on the following basis:

(1) 50 percent will be based on the relative proportion of the total number of children under the age of five years old residing within the workforce area to the statewide total number of children under the age of five years old;~~,~~ and

(2) 50 percent will be based on the relative proportion of the total number of people residing within the workforce area whose income does not exceed 100 percent of the poverty level to the statewide total number of people whose

income does not exceed 100 percent of the poverty level.

(c) CCDF Matching Funds authorized under the Social Security Act, §418(a)(2), as amended, together with state general revenue matching funds and estimated appropriated receipts of donated funds, will be allocated according to the relative proportion of children under the age of 13 years old residing within the workforce area to the statewide total number of children under the age of 13 years old.

(d) CCDF Discretionary Funds authorized under the Child Care and Development Block Grant Act of 1990 §658B, as amended, will be allocated according to the relative proportion of the total number of children under the age of 13 years old in families whose income does not exceed 150 percent of the poverty level residing within the workforce area to the statewide total number of children under the age of 13 years old in families whose income does not exceed 150 percent of the poverty level.

(e) The following provisions apply to the funds allocated in subsections (b) - (d) of this section:

(1) Sufficient funds must be used for direct child care services to ensure Commission-approved performance targets are met.

(2) Sufficient funds must be used to ensure children eligible for the first priority group described in §809.43 of this title are assured child care services.

~~(2) Children eligible for Transitional and Choices child care shall be served on a priority basis to enable parents to participate in work, education, or training activities.~~

(3) No more than 5 percent of the total expenditure of funds may be used for administrative expenditures as defined in federal regulations contained in 45 CFR Part 98~~C.F.R. §98.52~~, as may be amended unless the total expenditures for a workforce area are less than $5,000,000. If a workforce area has total expenditures of less than $5,000,000, then no more than $250,000 may be used for administrative expenditures.

(4) Pursuant to Texas Government Code, §2308.317, each Board shall use at least 2 percent of the funds allocated under this section for quality child care initiatives.

~~(4) Each Board shall set the amount of the total expenditure of funds to be used for quality activities consistent with federal and state statutes and regulations.~~

(5) The Board shall comply with any additional requirements adopted by the Commission or contained in the Board contract.

(6) Allocations of child care funds will include applications of hold harmless/stop

gain procedures.

§800.68. Adult Education and Literacy.

(a) AEL funds available to the Commission to provide services under the federal Adult Education and Family Literacy Act (AEFLA), WIOA Title II, together with associated state general revenue matching funds and federal TANF funds--together with any state general revenue funds appropriated as TANF maintenance-of-effort--will be used by the Commission, as set forth in subsections (b) - (e) ~~subsections (b) - (d)~~ of this section. Prior to any grant recipient receiving notice of an award, the Commission shall review and approve the award of grant funds to be issued under this program. The Commission shall give priority in continuing to award ~~awarding~~ funds through contracted grant renewal periods to entities that consistently satisfy annual enrollment targets and performance benchmarks established by the Commission that align to Texas Labor Code, §315.002(b-1)~~requirements comparable to subsection (e) of this section~~.

(b) At least 82.5 percent of the AEFLA §231 federal funds constituting the total state award of AEFLA state grants--including amounts allotted to the eligible agency having a state plan, as provided by AEFLA §211(c)--will be awarded annually to entities with demonstrated effectiveness as determined through a statewide competitive procurement and~~allocated by the Commission to the workforce areas. From the amount allotted to the eligible agency having a state plan, as provided by AEFLA §211(c), the Commission will allocate amounts to the workforce areas according to the established federal formula, as follows~~:

(1) ~~100 percent~~ will be based on:

(A) the relative proportion of individuals residing within each county ~~workforce area~~ who are at least 18 years of age, do not have a secondary school diploma or its recognized equivalent, and are not enrolled in secondary school~~,~~ during the most recent period for which statistics are available;

(B) an equal base amount; and

(C) the application of a hold-harmless/stop-gain procedure.

(2) No more than 10 percent of the annual renewal shall be determined on the basis of the achievement of performance benchmarks approved by the Commission.

(3)~~(2)~~ No more than 5 percent of the funds (29 USC 3323(a)(2)) expended as part of this ~~workforce area~~ allocation shall be used for administrative costs, ~~as defined by AEFLA,~~ provided, however, that the Special Rule outlined in AEFLA §233(b) shall apply with effective justification, as appropriate.

~~(3) No more than 10 percent of this allocation shall be available for expenditure within each workforce area on the basis of the achievement of performance benchmarks, as set forth in subsection (e) of this section.~~

(c) At least 80 percent of the state general revenue matching funds associated with the allotment of federal funds to the eligible agency having a state plan, as provided by AEFLA §211(c), will be awarded to entities with demonstrated effectiveness as determined through a statewide competitive procurement, and ~~allocated by the Commission to the workforce areas according to the established federal formula, as follows~~:

(1) ~~100 percent~~ will be based on:

(A) the relative proportion of individuals residing within each county ~~workforce area~~ who are at least 18 years of age, do not have a secondary school diploma or its recognized equivalent, and are not enrolled in secondary school, during the most recent period for which statistics are available;

(B) an equal base amount; and

(C) the application of a hold-harmless/stop-gain procedure.

(2) No more than 10 percent of the annual renewal shall be determined on the basis of the achievement of performance benchmarks approved by the Commission.

(3)~~(2)~~ No more than 15 percent of the funds expended as part of this ~~workforce area~~ allocation shall be used for administrative costs, as defined by Commission policy.

~~(3) No more than 10 percent of this allocation shall be available for expenditure within each workforce area on the basis of the achievement of performance benchmarks, as set forth in subsection (e) of this section.~~

(d) At least 80 percent of federal TANF funds associated with the AEL program--together with any state general revenue funds appropriated as TANF maintenance-of-effort--will be awarded to entities with demonstrated effectiveness as determined through a statewide competitive procurement, as follows~~allocated by the Commission to the workforce areas according to a need-based formula, as follows~~:

(1) 100 percent will be based on:

(A) the relative proportion of the unduplicated number of TANF adult recipients with educational attainment of less than a secondary diploma during the most recently completed calendar year;

(B) an equal base amount; and

(C) the application of a hold-harmless/stop-gain procedure.

(2) No more than 10 percent of the annual renewal shall be determined on the basis of the achievement of performance benchmarks approved by the Commission.

(3)~~(2)~~ No more than 15 percent of the funds (45 CFR §263.13) expended as part of this ~~workforce area~~ allocation shall be used for administrative costs~~, as defined by federal regulations and Commission policy~~.

~~(3) No more than 10 percent of this allocation shall be available for expenditure within each workforce area on the basis of the achievement of performance benchmarks, as set forth in subsection (e) of this section.~~

~~(e) AEL performance accountability benchmarks shall be established to coincide with performance measures and reports, or other periods, as determined by the Commission. Levels of performance shall, at a minimum, be expressed in an objective, quantifiable, and measurable form, and show continuous improvement.~~

(e)~~(f)~~ Texas Labor Code, §315.007(c), requires that performance incentive funding criteria shall include measures that require~~Performance accountability benchmarks shall~~:

~~(1) include measures for high school equivalency program or ability-to-benefit program enrollment and achievement, as outlined in paragraph (2) of this subsection. A postsecondary ability-to-benefit program, as outlined in paragraphs (2) and (3) of this subsection, is a postsecondary education or training program that:~~

~~(A) results in a recognized postsecondary credential; and~~

~~(B) enrolls AEL eligible participants who:~~

~~(i) do not have a high school diploma or recognized equivalency;~~

~~(ii) qualify for federal student financial aid eligibility under the federal Ability-to-Benefit provisions enacted in §484(d) of the Higher Education Act of 1965; and~~

~~(iii) demonstrate on an assessment instrument that the participant can pass college-level courses with some support;~~

~~(2) include measures that require:~~

(1)~~(A)~~ at least 25 percent of all participants served in the program year to be enrolled in a high school equivalency or postsecondary ability-to-benefit program; ~~and~~

(2)~~(B)~~ at least 70 percent of participants who were in a high school equivalency or postsecondary ability-to-benefit program during the program year and exited during the program year to achieve either a high school equivalency or a recognized postsecondary credential; and

(3) performance incentive funding amounts to be approved by the Commission each program year contingent upon the availability of funds. Only grant recipients who have successfully satisfied the criteria established in paragraphs (1) and (2) of this subsection will be awarded additional funding as approved by the Commission~~for milestones toward meeting high school equivalency program or postsecondary ability-to-benefit program enrollment and achievement as outlined in paragraph (2) of this subsection~~.

~~**§800.69. Integrated English Literacy and Civics Education Program.**~~

~~(a) At least 82.5 percent of the AEFLA §243 Integrated English Literacy and Civics Education federal award allocated to the state must be awarded to entities with demonstrated effectiveness as determined through a statewide competitive procurement, as follows:~~

~~(1) 100 percent of the award will be based on the demonstrated need cited and supported with data by the eligible applicant as part of a statewide procurement;~~

~~(2) No more than 5 percent of the funds expended as part of the total allocation shall be used for administrative costs, as defined by AEFLA, provided, however, that the Special Rule outlined in AEFLA §233(b) shall apply with effective justification, as appropriate;~~

~~(3) No more than 10 percent of this allocation shall be available for expenditure on the basis of the achievement of performance benchmarks, as set forth in §800.68(e); and~~

~~(4) The application of a hold-harmless/stop gain procedure.~~

~~(b) The Commission shall give priority in awarding funds to entities that consistently satisfy annual performance requirements comparable to §800.68(f) of this subchapter.~~

SUBCHAPTER F. INTERAGENCY MATTERS

§800.201. ~~Title and~~ Purpose.

The purpose of these rules is to provide notice to the public of any memorandum of understanding, contract, or other agreement between the Texas Workforce Commission and another Texas state agency that is adopted by rule as required by law or determined necessary by the Commission.

~~(a) These rules may be cited as Interagency Matters.~~

~~(b) The purpose of these rules is to implement and interpret the provisions of the Texas Administrative Code, Chapter 40, Interagency Matters, and to provide notice to the public of the contents of the Memorandums of Understanding.~~

~~§800.202. Memorandum of Understanding with Texas Commission for the Deaf and Hard of Hearing.~~

~~The Texas Workforce Commission hereby adopts by reference the terms of a memorandum of understanding entered into with the Texas Commission for the Deaf set out in §181.912(a) and (b) and §181.915 of this title (relating to the Texas Department of Correction and the Texas Workforce Commission). Copies of the memorandum of understanding are available at the Texas Workforce Commission, 101 East 15th Street, Room 614, Austin, Texas 78778.~~

~~§800.203. Memorandum of Understanding with Texas Education Agency.~~

~~The Texas Workforce Commission hereby adopts by reference the terms of a memorandum of understanding on transition planning for students enrolled in special education. Said memorandum of understanding is set out at 19 TAC §89.1110. Copies are available at the Texas Workforce Commission, 101 East 15th, Room 614, Austin, Texas 78778.~~

~~§800.204. Memorandum of Understanding with Texas Department of Economic Development.~~

~~The Texas Workforce Commission hereby adopts by reference the terms of a memorandum of understanding on program planning and budgeting relating to workforce development programs. Said memorandum of understanding is set out at 10 TAC §195.10. Copies are available at the Texas Workforce Commission, 101 East 15th, Room 614, Austin, Texas 78778.~~

§800.205. Memorandum ~~Memoranda~~ of Understanding with a Governmental Entity Pursuant to Texas Government Code §497.0596(a)(4).

(a) The Texas Workforce Commission ~~hereby~~ adopts by reference the terms of any memorandum of understanding (MOU) relating to identifying potentially affected employers under a proposed private sector prison industries program and providing such information to the appropriate governmental entity to meet its notification requirements. Information provided to a governmental entity shall comply with the requirements of Texas Labor Code §301.085 and 40 TAC, Chapter 815, Subchapter E, of this title.

(b) Any MOU ~~memorandum of understanding~~ under subsection (a) of this section shall stipulate that:

(1) only publicly available data sources shall be used;

(2) costs incurred for producing the data shall be reimbursed to the Agency; and

(3) the information provided by the Agency is solely for the limited purpose of allowing the governmental entity to meet its notice requirements under Texas Government Code, §497.0596, and is separate and apart from any certification described in Texas Government Code, §497.059.

(c) Copies of any MOU established under the terms of this section ~~the memoranda of understanding~~ are available at the Texas Workforce Commission, Office of General Counsel, 101 East 15th Street, ~~Room 614,~~ Austin, Texas 78778.

SUBCHAPTER G. PETITION FOR ADOPTION OF RULES

§800.251. ~~Title and~~ Purpose.

The purpose of this subchapter is to describe the Agency's process for addressing a petition for the adoption of a rule. This subchapter is required by Texas Government Code, §2001.021.

~~(a) Title. These rules may be cited as the Petition for the Adoption of Rules.~~

~~(b) Purpose. The purpose of these rules is to implement the provisions of Texas Government Code, §2001.21 regarding agency procedure for addressing petitions for the adoption of rules.~~

§800.252. Definitions.

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

~~(1) Commission--The Texas Workforce Commission~~

(1)~~(2)~~ Interested person--An interested person is defined as:

(A) a resident of this state;

(B) a business entity located in this state;

(C) a governmental subdivision located in this state; or

(D) a public or private organization located in this state that is not a state agency.

(2) Petition--A petition for rulemaking is a request from an interested person to a state agency to create, amend, or repeal a rule.

§800.253. Submission and Petition Requirements.

Any interested person may petition the ~~Texas Workforce Commission (~~Commission~~)~~ for ~~requesting~~ the adoption of a rule. Petitioners must~~should~~ submit petitions in writing to the Office of General Counsel~~General Counsel of the Commission~~. The petition may be in any legible form and~~but~~ must contain at least the following information:~~.~~

(1) ~~Petitioner's Name and Address.~~ The petitioner's~~petitioners'~~ first and last name and~~,~~ complete mailing address;~~, and signature should appear in the request.~~

(2) ~~Explanation and Justification. A petitioner should include an explanation and justification of the proposed rule. The explanation should include~~ An explanation of and justification for the proposed rule, including a concise statement of the relevant background information necessary to understand the need for the proposed rule, the existing problem that the proposed rule is intended to correct, and the foreseeable effects of the requested rule change;~~.~~

(3) ~~Text. A petitioner should include the~~ The full text of the proposed rule, including, if applicable, all changes to any existing rule and a ~~reflecting added or deleted words. A~~ reference to the ~~any~~ existing rule including its~~the~~ title, chapter, and section number; and~~, if applicable, should appear on the request.~~

(4) ~~Authority.~~ A statement of the statutory or other authority for making the proposed rule~~taking the requested action should also appear on the request~~.

§800.254. Review of Petition.

Upon receipt of a ~~substantially complete~~ petition, as described in §800.253 of this subchapter, the general counsel will forward a copy of the petition to the appropriate division director for a response.

(1) Division Response. Within 20 calendar days of ~~after~~ receiving the petition from the general counsel, the division director shall respond in writing to the general counsel ~~General Counsel~~ recommending either denying the request or initiating the rulemaking process. The division director's response shall contain the reasons for the recommendation.

(2) General Counsel Recommendation. Within 20 calendar days of ~~after~~ receiving the division director's response, the general counsel shall submit to the Commission ~~commissioners~~ the petition, the division director's response, and a written recommendation by the general counsel specifying the reasons for the recommendation.

§800.255. Commission Decision and Action.

(a) Not later than the 60th day after receipt of a petition, the Commission ~~The Commissioners~~ shall issue the final decision ~~regarding the petition within 60 days after receipt of the petition from the petitioner~~ to either:

(1) deny the petition in writing, stating the reasons for the denial; or

(2) initiate rulemaking proceedings in accordance with Texas Government Code, Chapter 2001~~, Administrative Procedure~~, Subchapter B, Rulemaking~~, as it may be amended~~.

(b) The Commission may modify any proposed rule to ensure that it conforms to the format of Commission~~commission~~ rules, adequately addresses the perceived problem, and conforms to the filing requirements of the *Texas Register*.

SUBCHAPTER H. VENDOR PROTESTS

§800.301. Vendor Protest Procedures.

(a) Any Respondent who is allegedly aggrieved in connection with the Solicitation, evaluation, or award of a contract by the Agency may formally protest to the Agency's director of business operations.

(1) Such protests must be made in writing and timely received by the Agency's director of business operations.

(2) The protest must be received by the Agency's director of business operations within 10 working days after the Protestant knows, or should have known, of the occurrence of the action that is protested.

(3) The Protestant shall email the protest to twcvendor@twc.texas.gov or mail or deliver copies of the protest to: Director of Business Operations, 101 E. 15th Street, Room 316T, Austin, Texas 78778. The Protestant must also mail or deliver copies of the protest to Interested Parties known to the Protestant.

(b) A protest that is not filed timely shall not be considered unless the director of business operations determines that the protest raises issues that are significant to the Agency's procurement practices or procedures.

(c) The protest must be in writing and contain:

(1) the identifying name and number of the Solicitation being protested;

(2) identification of the specific statute or regulation that the Protestant alleges has been violated;

(3) a specific description of each act or omission alleged to have violated the statutory or regulatory provision identified above in paragraph (2) of this section;

(4) a precise statement of the relevant facts including:

(A) sufficient documentation to establish that the protest has been timely filed; and

(B) a description of the resulting adverse impact to the Protestant;

(5) a statement of the argument and authorities that the Protestant offers in support of the protest;

(6) an explanation of the action the Protestant is requesting from the Agency; and

(7) a statement confirming that copies of the protest have been mailed or delivered to any other Interested Party known to the Protestant.

(d) The protest must be signed by an authorized representative for the Protestant and the signature notarized.

(e) The Protestant may appeal determination of a protest to the Agency's deputy executive director.

(1) The appeal filed under these procedures must be in writing, addressed to the Agency's deputy executive director; and

(2) The protest must be received by the deputy executive director no later than 10 business days after the date of receipt of the written determination issued by the director of business operations.

(f) The Agency may move forward with a Solicitation or contract award without delay, in spite of a timely filed protest, to protect the best interests of the Agency or the state.

SUBCHAPTER I. ENHANCED CONTRACT MONITORING

§800.350. Purpose and Scope.

(a) Purpose. The purpose of this subchapter is to implement the requirements of Texas Government Code, §2261.253(c), requiring state agencies to establish, by rule, a procedure to identify each contract that requires enhanced contract or performance monitoring.

(b) Scope. Pursuant to Texas Government Code, §2261.253(d) and (g), this subchapter does not apply to:

(1) memoranda of understanding;

(2) interagency contracts;

(3) interlocal agreements; ~~or~~

(4) contracts for which there is not a cost;~~.~~

(5) contracts posted on the major contracts database established under Texas Government Code, §322.020; or

(6) a contract of an institution of higher education that is valued at less than $15,000 and paid with money other than funds appropriated to the institution by this state.

§800.351. Enhanced Contract Monitoring Policy.

(a) The Agency shall identify which contracts for goods and services require enhanced monitoring by evaluating the risk factors, which include:

(1) the complexity of the goods and services to be provided;

(2) the contract amount;

(3) the length and scope of the project supported by the contract;

(4) whether the services are new or have changed significantly since the last procurement of the same services;

(5) whether the Agency has experience with the contractor;

(6) whether the project affects external stakeholders or is of particular interest to third parties;

(7) whether Agency data is accessed by the contractor; and

(8) any other factors the Agency determines in a particular circumstance will create a level of risk to the state or Agency such that enhanced monitoring is required.

(b) For contracts requiring enhanced monitoring, the contractor shall report to the assigned Agency contract manager on progress toward goals or performance measure achievements, and the status of deliverables, if any, and on any issues of which the contractor is aware that may create an impediment to meeting the project timeline or goals.

(c) Enhanced monitoring may also include site visits, additional meetings with contractor staff, and inspection of documentation required by the Agency to assess progress toward achievement of performance requirements.

(d) Projects deemed medium or high risk shall be monitored by the assigned contract manager and may involve additional team members such as an assigned project manager and staff from the Office of General Counsel or the Finance, Information Technology, or Fraud Deterrence and Compliance Monitoring divisions~~Regulatory Integrity Divisions~~, if warranted.

§800.352. Reporting on~~of~~ Enhanced Contract Monitoring.

(a) Pursuant to ~~the~~ Texas Government Code, §2261.253, the Agency shall submit information on each contract identified for enhanced contract monitoring to the Commission.

(b) The Agency's director of procurement and contract services ~~Procurement and Contract Services~~ (PCS ~~director~~) shall immediately notify the Commission, executive director, deputy executive director, and the director of business operations of any serious issue or risk that is identified with respect to a contract identified for enhanced contract monitoring.

(c) The contract manager shall report on the status of all contracts subject to enhanced monitoring to the PCS director quarterly.

(d) If any serious issues or risks are identified about a contract subject to enhanced monitoring, the PCS director will immediately notify the director of business operations, ~~and~~ the executive director, and the Commission.

(e) Per Texas Government Code, §2261.254, Agency contracts that meet or exceed a total contract value of $1 million must be reported to the Commission. Contracts under this subsection are not automatically required to be included in enhanced monitoring reporting solely based on dollar value but must be reported on a quarterly basis at a minimum to the PCS director, the director of business operations, the executive director, the deputy executive director, and the Commission. This reporting must include details on the following three criteria:

(1) compliance with financial provisions and delivery schedules under the contract;

(2) corrective action plans required under the contract and the status of any active corrective action plan; and

(3) any liquidated damages assessed or collected under the contract.

SUBCHAPTER L. WORKFORCE DIPLOMA PILOT PROGRAM

§800.502. Request for Qualifications and List of Qualified Providers.

(a) The Agency will identify qualified providers to participate in the Program through a statewide Request for Qualifications (RFQ) process conducted in accordance with state requirements. The Agency will publish an RFQ no later than October 15th of each year to identify Program providers.

(b) Potential providers will apply directly to the Agency using the RFQ process, and, once identified as a qualified provider, must meet all deadlines, requirements, and guidelines set forth in the published RFQ.

(c) The Agency will publish a list of qualified providers no later than November 15th of each year to participate in the Program the next calendar year.

(d) An approved provider maintains approval to participate in the program during a subsequent calendar year without reapplying to the Agency unless the provider is removed from the approved provider list as provided by Texas Labor Code, §317.008.

(e)~~(d)~~ Each provider on the qualified provider list will be eligible to receive monthly reimbursements for this Program based on monthly invoices submitted to the Agency, as prescribed in the RFQ's terms.

(f)~~(e)~~ Each year, the Agency shall review and update the list of qualified providers. Qualified providers that do not meet the minimum performance standards outlined in §800.503 of this subchapter will be placed on probation for the remainder of the calendar year. Failure to meet both minimum performance standards for two consecutive years will result in disqualification from the Program.

(g)~~(f)~~ The Agency's determinations in the RFQ process will be based on the affirmation of the qualified provider to effectively perform all services and activities outlined in Texas Labor Code, Chapter 317.