

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.

33
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.

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 areas 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. Additionally, Boards currently receive incentive payments for recruiting new business
17 partners to collaborate on SDF grants.

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

22 The benefits of Board collaboration, the incentive to bring on new partners, and Board review of
23 SDF grant applications must be balanced with the concerns of non-Board grant applicants
24 regarding the appearance of a conflict in having another potential grant applicant review the
25 application before the non-Board applicant submits it. A potential solution would be to have a
26 two-track process—one followed by Boards declaring an Intent to Apply for an SDF grant, and
27 one followed by Boards that do not intend to apply for an SDF grant.

28 Boards wishing to apply for an SDF grant will inform TWC of their Intent to Apply by the
29 beginning of the state fiscal year. A Board submitting an Intent to Apply will acknowledge that
30 during the fiscal year covered by the Intent to Apply notice, the Board will not:

- 31 • review or comment on any SDF grant application submitted by non-Board entities in the
32 Board’s workforce area during the fiscal year; or
- 33 • be eligible for an incentive payment for bringing in new business partners for SDF grants.

34 Boards that do not submit an Intent to Apply notification will continue under the current rules
35 and processes for review and comment during the application process, notification during the
36 evaluation process, and incentive payments. If a Board submits an Intent to Apply for SDF
37 grants after the beginning of the state fiscal year, the Board must wait until the start of the next
38 fiscal year to submit any SDF grant applications. A Board must not submit an SDF grant
39 application in competition with a non-Board SDF grant application that the Board reviewed
40 pursuant to TWC rule §803.14(a).

- 1 Exceptions for Boards that do not submit an Intent to Apply may be considered on a case-by-
2 case basis by TWC’s executive director, and only when the following apply:
- 3 • A request for training under one of the SDF special initiatives is submitted, and there is not a
4 comparable SDF grant in place at a community college.
 - 5 • Other exceptions, as identified.

6 **Decision Points**

7 Staff seeks direction on amending Chapter 803 to require Boards intending to apply for an SDF
8 grant to notify TWC of their intent by the beginning of the state fiscal year. The rules would state
9 that language related to Board comment and review will not apply to Boards submitting an Intent
10 to Apply for an SDF grant.

11 Staff also seeks direction on amending Chapter 803 to allow exceptions for Boards that did not
12 notify TWC of the Intent to Apply, so that they can apply for an SDF grant when circumstances
13 warrant.

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

15 **Background**

16 HB 108, 85th Texas Legislature, Regular Session (2017), amended Texas Labor Code Chapter
17 303 to add §303.0031 regarding the use of SDF grants to encourage employer expansion and
18 recruitment. The section allows SDF grants to provide “an intensive and rapid response to, and
19 support services for, employers expanding in or relocating their operations to this state, with a
20 focus on recruiting employers that will provide complex or high-skilled employment
21 opportunities in this state.”

22 Grants funded under §303.0031 may be used to:

- 23 • provide leadership and direction to, and connections among, out-of-state employers,
24 economic development organizations, Boards, public junior colleges, and public technical
25 institutes to support employers’ recruitment and hiring for complex or high-skilled
26 employment positions as necessary to facilitate the employers’ relocation to or expansion of
27 operations in Texas; and
- 28 • award grants to a public junior college or public technical institute providing workforce
29 training and related support services to employers that commit to establishing a place of
30 business in Texas.

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

- 32 • develop:
 - 33 ➤ customized workforce training programs for an employer’s specific business needs;
 - 34 ➤ fast-tracked curriculum;
 - 35 ➤ workforce training–related support services for employers; and
 - 36 ➤ instructor certification necessary to provide workforce training; and
- 37 • acquire training equipment necessary for instructor certification and employment.

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

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

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

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

9 **Issue: Including Recruitment and Expansion as an Allowable Use of the SDF**

10 Chapter 803 does not currently address the allowable use of SDF grants for employer expansion
11 and recruitment under §303.0031.

12 **Decision Point**

13 Staff seeks direction on amending Chapter 803 to include the provisions of §303.0031 regarding
14 the use of SDF grants for expansion and recruitment activities, including language to require that
15 grant recipients agree to repay amounts received, and any related interest, if the money was not
16 used for the purposes awarded.

17 ***Technical Amendments***

18 **Background**

19 There are several technical amendments to align Chapter 803 with changes in statute and other
20 TWC rules.

1 **Issue: Changes to Skills Statute and TWC Rules**

2 In addition to including Boards as eligible grant applicants, HB 700 also amended Chapter 303 to
3 replace “Texas Engineering Extension Service” with “Texas A&M Engineering Extension
4 Service.”

5 Additionally, §803.11 states that SDF grant recipients are subject to Chapter 800, Subchapter H,
6 Agency Monitoring Activities. This subchapter has been moved to Chapter 802, Subchapter D;
7 therefore, the citation in §803.11 must be updated accordingly.

8 **Decision Point**

9 Staff seeks direction on amending Chapter 803 to:

- 10 • replace language referencing “Texas Engineering Extension Service” with “Texas A&M
11 Engineering Extension Services”; and
12 • change the citation of Agency Monitoring Activities from Chapter 800 to Chapter 802.