

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

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

ON **NOVEMBER 22, 2016**, THE TEXAS WORKFORCE COMMISSION (COMMISSION) ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated date of publication in the *Texas Register*: **December 9, 2016**
The rules will take effect: **December 12, 2016**

The Commission adopts amendments to the following sections of Chapter 804, relating to Jobs and Education for Texans (JET) Grant Program, *without* changes, as published in the September 9, 2016, issue of the *Texas Register* (41 TexReg 7006):

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

The Commission adopts the repeal of the following section of Chapter 804, relating to the Jobs and Education for Texans (JET) Grant Program, *without* changes, as published in the September 9, 2016, issue of the *Texas Register* (41 TexReg 7006):

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

PART I. PURPOSE, BACKGROUND, AND AUTHORITY
PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

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

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

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

SUBCHAPTER A. DEFINITIONS

The Commission adopts the following amendments to Subchapter A:

§804.1. Definitions

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

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

The Commission adopts the following amendments to Subchapter B:

§804.11. Advisory Board Purpose and Composition

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

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

§804.12. Meetings Required

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

§804.13. General Advisory Board Responsibilities

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

§804.14. General Comptroller Responsibilities to the Advisory Board

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

SUBCHAPTER C. GRANT PROGRAM

The Commission adopts the following amendments to Subchapter C:

§804.21. General Statement of Purpose

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

§804.22. Notice of Grant Availability and Application

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

§804.23. Grant Award and Acceptance

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

§804.24. Reporting Requirements

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

§804.25. Enforcement

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

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

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

The Commission adopts the following amendments to Subchapter D:

§804.41. Grants for Career and Technical Education Programs

Section 804.41(a) of the rules transferred from the Comptroller sets forth the guidelines for JET grants awarded to public junior colleges and public technical institutes for the development of career and technical education programs that meet the requirements of

Texas Education Code §134.006 and Texas Government Code §403.356. The Agency adds ISDs to the list of eligible grantees and to include a cross-reference to Texas Education Code §134.007 pertaining to ISDs to align with the statutory language in HB 3062.

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER A. DEFINITIONS

§804.1. Definitions.

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

- (1) Act--relating to the Jobs and Education for Texans Grant Program in Texas Education Code, Chapter 134.
- (2) Advisory board--The advisory board of education and workforce stakeholders created pursuant to the Act.
- (3) Career and technical education--Organized educational activities that offer a sequence of courses that:
 - (A) provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in high-demand occupations or emerging industries;
 - (B) includes competency-based applied learning that contributes to the academic knowledge, problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual; or
 - (C) provides a license, a certificate, or a postsecondary degree.
- (4) Certificate or degree completion--Any grouping of workforce or technical courses in sequential order that, when satisfactorily completed by a student, will entitle the student to a Texas Higher Education Coordinating Board (Coordinating Board)--approved certificate or associate degree from a public technical institute or public junior college.
- (5) Developmental education--Structured courses, tutorials, laboratories, or other proven instructional efforts that successfully prepare students for college level (and therefore work-ready) courses as measured by passing the state-required college entrance exam (or meeting the Texas Success Initiative requirements).

- (6) Emerging industry--A growing, evolving or developing industry based on new technological products or concepts.
- (7) High-demand occupation--A job, profession, skill, or trade for which employers within the State of Texas generally, or within particular regions or cities of the state, have or will have a substantial need. In determining whether there is or will be a substantial need for a particular job, profession, trade, or skill, the Agency may consider occupations identified by the 28 Local Workforce Development Boards (Board-Area Target Occupations Lists) and/or the Agency's labor market projections.
- (8) ISD--Independent school district.
- (9) JET--The Jobs and Education for Texans Grant Program.
- (10) Notice of Availability or NOA--The notice of availability that is published by the Agency pursuant to §804.22 of this title (relating to Notice of Grant Availability and Application).
- (11) Public junior college--Any junior college certified by the Texas Higher Education Coordinating Board (Coordinating Board) in accordance with Texas Education Code §61.003.
- (12) Public technical institute--The Lamar Institute of Technology or the Texas State Technical College System, as in accordance with Texas Education Code §61.003.

SUBCHAPTER B. ADVISORY BOARD COMPOSITION, MEETING GUIDELINES

§804.11. Advisory Board Purpose and Composition.

- (a) The advisory board shall assist the Agency in administering JET.
- (b) The advisory board is composed of six members who serve two-year terms, and are appointed as follows:
 - (1) one member appointed by the governor;
 - (2) one member appointed by the lieutenant governor;
 - (3) one member appointed by the speaker of the house of representatives;
 - (4) one member appointed by the Coordinating Board;
 - (5) one member appointed by the Commission; and

- (6) the Commission chair, who serves as the presiding officer.

§804.12. Meetings Required.

- (a) The advisory board is required to meet at least once each quarter, or as needed, to review received applications and recommend awarding grants under this chapter to public junior colleges, public technical institutes, and ISDs.
- (b) Meetings shall be subject to the requirements of the Open Meetings Act.

§804.13. General Advisory Board Responsibilities.

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

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

SUBCHAPTER C. GRANT PROGRAM

§804.21. General Statement of Purpose.

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

§804.22. Notice of Grant Availability and Application.

- (a) From time to time, the Agency may publish a Notice of Availability (NOA) of grant funds under this chapter. The notice shall be published in the *Texas Register* and on the Agency's website. In addition to the respective purpose for each grant program under this chapter, the notice may include:
 - (1) the total grant funds available for award;
 - (2) the minimum and maximum amount of grant funds available for each grant recipient;
 - (3) eligibility criteria;
 - (4) application requirements;

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

§804.23. Grant Award and Acceptance.

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

§804.24. Reporting Requirements.

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

§804.25. Enforcement.

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

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

§804.41. Grants for Career and Technical Education Programs.

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

- (2) A grant recipient's matching share may consist of one or more of the following contributions:
 - (A) cash;
 - (B) equipment, equipment use, materials, or supplies;
 - (C) personnel or curriculum development cost; and/or
 - (D) administrative costs that are directly attributable to the project.
- (3) The matching funds must be expended on the same project for which the grant funds are provided and valued in a manner acceptable or as determined by the Agency.