

THECB Agreement No.: _____
TWC Agreement No.: _____

MEMORANDUM OF UNDERSTANDING

Section 1. Parties

This Memorandum of Understanding (Agreement) is entered into by and between the TEXAS HIGHER EDUCATION COORDINATING BOARD, a Texas state agency, hereinafter designated “THECB” and the TEXAS WORKFORCE COMMISSION, hereinafter designated “TWC.” At times, THECB and TWC are referred to singularly as “Party” and collectively as “Parties.”

Party: Texas Higher Education Coordinating Board
1801 N. CONGRESS AVE., SUITE 12.200
AUSTIN, TEXAS 78701

Party: Texas Workforce Commission
101 E 15TH STREET
AUSTIN, TEXAS 78778

Section 2. Term of Agreement

The term of this Agreement will begin upon execution, and end on December 1, 2025, unless extended or terminated as otherwise provided for in this Agreement (Agreement Term).

Section 3. Purpose and Statement of Services to be Performed

3.1 Purpose

The purpose of this Agreement is for TWC and THECB to collaborate to jointly implement the strategies and responsibilities detailed in the statement of work. To the extent data will be shared between the Parties, the data will be shared under the terms of the Master Data Exchange Agreement Among the Texas Workforce Commission, the Texas Education Agency, and the Texas Higher Education Coordinating Board, executed January 2023 (Tri-Agency Agreement).

3.2 Statement of Work

For each initiative listed in this Section 3.2, the Parties will comply with the terms of the Tri-Agency Agreement to submit a Data Access Request and the data for each initiative may be shared through the Portal or by an Alternative Mechanism, as described in the Tri-Agency Agreement. In consideration of the mutual promises set forth in this Agreement, the Parties agree as follows:

3.2.1 *INITIATIVE: Talent Pipeline*

Key Strategy: Design and implement select regional pilots to address strategic workforce shortages.

Key Responsibilities:

THECB—Project management, landscape analysis, and convene key regional stakeholders.

TWC—Supply data at both state and regional levels to assist in identification of strategic workforce shortages in accordance with the Tri-Agency Agreement, assist THECB in identifying key regional stakeholders, participate in regional stakeholder convenings where relevant, and consider sources of funding of workforce initiatives to address shortages.

3.2.2 *INITIATIVE: Texas Credential Library*

Key Strategy: Populate the Texas Credential Library with data and information that will result in an inventory of workforce credentials available in the State.

Key Responsibilities:

TWC—Provide services to design and build out the library, manage the contract for said services, populate the library with mutually agreed and pre-determined information and data sets, maintain currency of information and data, and work with THECB to deduplicate information and data.

THECB—Provide TWC with technical advice on the needs of the Texas Credential Library, populate the library with mutually agreed and pre-determined information and data sets, maintain currency of information and data, and work with TWC to deduplicate information and data.

3.2.3 *INITIATIVE: Opportunity High School Diploma*

Key Strategy: Design and launch a competency-based high school diploma framework and program by September 1, 2024, for adults enrolled in a workforce education program at a college.

Key Responsibilities:

THECB—Identify and enter into agreements with five colleges or five consortia to participate, work with partners colleges to determine framework for the diploma, engage business and industry to define skill and knowledge competencies (core, academic, soft) to be contained in the program curriculum determine suite of permitted assessments, and develop rules effective September 1, 2024.

TWC—Convene Chairman’s Tri-Agency Workforce Council to provide advice regarding competencies required in the program and determine and document linkages to adult education and literacy programs to support potential funding options.

3.2.4 *INITIATIVE: Work-Based Learning*

Key Strategy: Promulgate and implement the work-based learning model developed under the Tri-Agency initiative.

Key Responsibilities:

TWC—Coordinate quarterly meetings between TWC and THECB to identify opportunities to incorporate WBL into programs.

THECB—Participate in quarterly meetings between THECB and TWC to identify opportunities to incorporate WBL into programs.

3.2.5 *INITIATIVE: Coordination of Employer Engagement*

Key Strategy: Institute a process for coordinating “asks” of employers by THECB and TWC.

Key Responsibilities:

THECB—Co-convene and participate in a workgroup to identify key/significant employer touchpoints and timelines that can be incorporated into a process design; map process/plan, including events, communication requirements, and timelines; and execute process/plan.

TWC—Co-convene and participate in a workgroup to identify key/significant employer touchpoints and timelines that can be incorporated into a process design; map process/plan, including events, communication requirements, and timelines; and execute process/plan.

3.2.6 *INITIATIVE: Coordination of Grants*

Key Strategy: Institute quarterly meetings between the agencies to facilitate collaboration and planning regarding grant development, reduce duplication, address gaps, and ensure that funding decisions meet the needs of the state.

Key Responsibilities:

THECB—Co-coordinate and participate in quarterly meetings; share information and data regarding workforce grants, funding sources, funding amounts, and RFA schedules for which the agency is responsible; contribute to the development of a master workforce education and training grants map to inform decision-making.

TWC—Co-coordinate and participate in quarterly meetings; share information and data regarding workforce grants, funding sources, funding amounts, and RFA schedules for which the agency is responsible; contribute to the development of a master workforce education and training grants map to inform decision-making.

3.2.7 The parties shall develop and mutually agree to a project plan and deadlines for each initiative listed in this statement of work.

Section 4. Terms and Conditions

4.1 Termination

4.1.1 *Convenience of the State*

Either Party, in its sole discretion, has the right to terminate this Agreement, in whole or in part, by notifying the other Party in writing of such termination at least 30 days prior to date of the termination.

4.1.2 *Termination for Cause*

Either Party may, by written notice to the other Party, immediately terminate this Agreement for cause if they are not reasonably satisfied with the services, default or abandonment occurs, or the other Party fails to comply fully with any term or condition of this Agreement, through no material fault of the terminating Party.

4.1.3 *Interpretation*

Either Party may terminate this Agreement immediately upon notice to the other Party in the event federal or state law is enacted, amended, or judicially interpreted to render continued fulfillment of this Agreement, on the part of either Party, wholly unreasonable or impossible.

4.1.4 *Effect of Termination*

Upon any termination, all indemnities, including without limitation those set forth in this Agreement, as well as Agreement provisions regarding confidentiality, records retention, ownership, dispute resolution, and any other provision that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, shall survive the termination of this Agreement for any reason whatsoever and shall remain in full force and effect. In the event of any termination, both Parties shall, unless otherwise mutually agreed upon in writing, cease all services immediately upon the effective date of termination.

4.2 Amendment

This Agreement may be modified only by written amendment executed by the Parties hereto—except that any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal or state law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or by regulation. The Party with the relationship to the federal entity with the impacted change to a federal law or regulation shall provide notice to the other Party within 30 days of the change informing the other Party of the requirements for compliance.

The Parties will comply with all amendments, regulations, and guidance relating to those laws, to the extent applicable.

4.3 Substitutions

Substitutions are not permitted without written approval of the Parties.

4.4 Sovereign Immunity

The Parties stipulate and agree that no provision of, or any part of this Agreement between THECB and TWC, or any subsequent amendment shall be construed: (1) as a waiver of the doctrine of sovereign immunity or immunity from suit as provided for in the Texas Constitution and Texas state laws; (2) to extend liability to either Party beyond such liability provided for in the Texas Constitution and Texas state laws; or (3) as a waiver of any immunity provided by the Eleventh Amendment or any other provision of the United States Constitution or any immunity recognized by the courts and the laws of the state of Texas and the United States. The state of Texas and the Parties do not waive sovereign immunity by entering into this Agreement and specifically retain such immunity and all defenses available to them under the Texas state laws or common law.

4.5 Assignment, Delegation, or Subcontracting

Unless as otherwise provided for in this Agreement, no contractual rights, interest, or obligation shall be assigned, delegated, or subcontracted by either Party without the other Party's prior written approval. No assignment, delegation, or subcontract approved by either Party shall relieve the other Party of any obligation or responsibility under this Agreement.

4.6 Dispute Resolution

To the extent applicable, the dispute resolution process provided for in Texas Government Code §§ 2260.001-.108 and Title 19 Texas Administrative Code §§ 1.20-.67 shall be used by the Parties to attempt to resolve any claim for breach of this Agreement that is subject to the requirements of Chapter 2260.

4.7 Public Disclosure

The Parties understand and agree that no public disclosures or news releases pertaining to this Agreement, including any results, findings, or reports conducted to fulfill requirements of this Agreement, shall be made without the other Party's prior written approval. In the event either Party receives a Public Information Act request regarding information pertaining to this Agreement, the receiving Party shall identify the other Party within three (3) business days. The Parties shall coordinate the response to any such Public Information Request.

4.8 Applicable Law and Venue

This Agreement and any incorporated documents shall be governed by and construed in accordance with Texas state laws. The venue of any suit arising under this Agreement is fixed in any court of competent jurisdiction in Travis County, Texas.

4.9 Additional Responsibilities

4.9.1 Breach Notification

The Parties agree that the Party holding data of the other Party at the time of a security event involving the holder of the data will be responsible for compliance with the requirements of §2054.603, Texas Government Code.

4.9.2 Other Laws, Regulations, Orders, and Decrees

Both Parties shall comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations and the orders and decrees of any court, administrative body, or tribunal in any matter affecting the performance of this Agreement, including applicable workers' compensation laws, compensation statutes and regulations, and licensing laws and regulations.

4.10 Notice

4.10.1 Form of Notice

All notices and other communications in connection with this Agreement shall be in writing.

4.10.2 Method of Notice

Except as provided in Section 4.12, notices must be given by (a) personal delivery, (b) express courier (with confirmation), (c) registered or certified mail (return receipt requested), or (d) electronic mail to the Party at the address specified in this Agreement, or to the address that a Party has notified to be that Party's address for the purpose of this section. Electronic

mail is required for notice pertaining to breach, daily operations, or emergent situations.

4.10.3 *Receipt of Notice*

A notice in accordance with this Agreement will be effective upon receipt by the Party to which it is given or, if mailed by registered or certified mail, upon the earlier of receipt or the third business day following mailing.

THECB's Notice Address:

Lee Rector
Associate Commissioner for Workforce Education
Texas Higher Education Coordinating Board
1801 N. Congress Ave., Suite 12.200
Austin, Texas 78701
Email Address: Lee.Rector@highered.texas.gov
512-427-6344

TWC's Notice Addresses:

Information Security Officer:

Lance Leatherwood, Chief Information Security Officer (CISO)
1117 Trinity Street, Suite 0330A,
Austin, TX 78701
Email Address: lance.leatherwood@twc.texas.gov
512-962-2476

Privacy Officer:

Gena Garcia, Privacy Officer
1117 Trinity Street, Suite 304T
Austin, TX 78701
Email Address: gena.garcia@twc.texas.gov
512-756-3393

With copy to:

Donna Lowe, Privacy Advisor
101 E. 15th Street, Suite 266
Austin, TX 78701
Email Address: donna.lowe@twc.texas.gov
512-809-9279

4.11 Equal Opportunity

Both Parties represent and warrant that it shall not discriminate against any person on the basis of race, color, national origin, religion, political belief, sex, age, or disability in the performance of this Agreement.

4.12 Contacts

Email addresses and phone numbers to notify primary contacts for expedient and routine communications related to the performance of services and any breach notifications that might be required are as follows:

THECB Contact:

Lee Rector
Associate Commissioner for Workforce Education
Lee.Rector@highered.texas.gov
512-427-6344

TWC Contacts:

Information Security Officer:

Lance Leatherwood, Chief Information Security Officer (CISO)
lance.leatherwood@twc.texas.gov
512-962-2476

Privacy Officer:

Gena Garcia, Privacy Officer
gena.garcia@twc.texas.gov
512-756-3393

With copy to:

Donna Lowe, Privacy Advisor
donna.lowe@twc.texas.gov
512-809-9279

4.13 Cybersecurity Training

Both Parties represents and warrants that it will comply with the requirements of Texas Government Code § 2054.5192 relating to cybersecurity training and required verification of completion of the training program.

4.14 Severability and Waiver

The invalidity, illegality, or unenforceability of any provision of this Agreement shall in no way affect the validity, legality, or enforceability of any other provision.

Each and every right granted to the Parties hereunder or under any other document delivered hereunder or in connection herewith, or allowed them by law or equity, shall be cumulative and may be exercised from time to time. Failure by THECB or TWC at any time to require strict performance of any provision or obligation contained herein shall not constitute a waiver or diminish the rights of either Party thereafter to demand strict compliance. THECB's review, approval, or acceptance any of the services provided in this Agreement shall not be construed to operate as a waiver of any rights under this Agreement, or of any cause of action arising out of the performance of the services required by this Agreement.

4.15 Compliance with Tri-Agency Agreement for Collection, Storage, Access, and Use of Data and Confidential Information

The Parties shall comply with the requirements of the Tri-Agency Agreement for any data or information transmitted, exchanged, stored, or otherwise provided to the other Party or its agent (including subcontractors) under this Agreement.

4.16 Prohibited Technology

The Parties hereby certify that they are in compliance with Texas Government Code Chapter 620, prohibiting the use of certain social media applications and services on devices owned or leased by governmental entities; adopting a policy prohibiting the installation or use of a covered application on devices owned or leased by governmental entities; and requiring the removal of covered applications from those devices including the social media applications or services and hardware products listed on the Department of Information Resources (DIR) webpage located at: <https://dir.texas.gov/information-security/prohibited-technologies>.

4.17 Entire Agreement

This Agreement consists of the following document: the final executed Agreement

This Agreement (including any exhibits, attachments, and/or amendments) contains the final, complete, and exclusive understanding of the Parties and supersedes all prior, contemporaneous, oral, or written understandings, representations, and negotiations between the Parties relating to the subject matter of this Agreement. The Parties further agree that this Agreement may not in any way be explained or supplemented by a prior or existing course of dealings between the Parties unless specifically incorporated and/or referenced, by usage of trade or custom, or by any prior performance between the Parties pursuant to this Agreement or otherwise. This Agreement does not in any way modify, amend, supplement, or supersede, the Tri-Agency Agreement.

Section 5. Signatures

By signature hereon, the individual below represents and warrants that they are a duly authorized representative of TWC and have the authority to bind TWC in this Agreement.

Texas Workforce Commission

By: _____

Name: _____

Title: _____

Date: _____

I, an authorized representative of THECB, hereby certify that this Agreement complies with applicable statutes and regulations and authorize the services to be performed as written above.

AGREED and accepted on behalf of the
Texas Higher Education Coordinating Board

By: _____

Name: _____

Title: _____

Date: _____