

**60x30TX**



Texas Higher Education  
Coordinating Board

## **REQUEST FOR APPLICATIONS**

### **Nursing Innovation Grant Program**

**Supporting Clinical Learning Experiences to Mitigate  
Impediments due to COVID-19**

**2020-2022**

**23172**

**INQUIRY DEADLINE: 11:59 p.m. CDT, August 26, 2020**

**APPLICATION DEADLINE: 11:59 p.m. CDT, September 1, 2020**

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## **1. OVERVIEW OF FUNDING OPPORTUNITY**

### **1.1 PROGRAM TITLE**

Nursing Innovation Grant Program (NIGP)

### **1.2 SYNOPSIS OF PROGRAM**

NIGP was established to provide grant funding to eligible programs that propose to address the shortage of registered nurses (RN) by developing or expanding new activities and projects that promote innovation in the preparation of initial RN licensure nursing students and of faculty who may teach in initial RN licensure programs.

This specific Request for Applications (RFA) aims to support eligible initial RN licensure programs in their efforts to mitigate the impact on Texas students' clinical learning experiences from the Coronavirus Disease 2019 (COVID-19), in anticipation that the impact could be potentially long-lasting.

### **1.3 PROGRAM AUTHORITY**

The statutory authority for the Nursing Innovation Grant Program is found in Texas Education Code, Section 63.202 (f) and (g), Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-related Programs, and it directs the Texas Higher Education Coordinating Board (THECB) to award grant funding to programs preparing students for initial licensure as RNs or programs preparing nursing faculty who hold a master's or doctoral degree.

### **1.4 POINT OF CONTACT**

All inquiries and communications concerning this RFA shall be directed **in writing** via email to:

Fu-An Lin, Ph.D., Program Director  
Academic Quality and Workforce  
Texas Higher Education Coordinating Board  
Email: [NIGP@highered.texas.gov](mailto:NIGP@highered.texas.gov)

### **1.5 INQUIRIES**

All inquiries shall be directed to Point of Contact. Applicants and prospective Applicants must not discuss an Application or this RFA with any other THECB employee unless authorized by the Point of Contact. Failure to comply with this requirement may result in the disqualification of an Application. All responses by the THECB must be in writing to be binding. Questions must be submitted via email to [NIGP@highered.texas.gov](mailto:NIGP@highered.texas.gov) by 11:59 p.m. CDT, August 26, 2020.

Any information deemed by the THECB to be important and of general interest or which modifies requirements of the RFA shall be sent in the form of an Addendum to the RFA (Addendum) to all Applicants that have submitted an Application. All Applicants must acknowledge receipt of all Addenda, if any, to this RFA by an email to [NIGP@highered.texas.gov](mailto:NIGP@highered.texas.gov).

## **2. AWARD SUMMARY**

### **2.1 MAXIMUM NUMBER OF AWARDS ANTICIPATED AND MAXIMUM AWARD AMOUNT ANTICIPATED**

Contingent upon the amount of funding available in the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-related Programs, the THECB expects to award approximately 40 grants (Grant Award), not to exceed \$200,000 per Grant Award for the Grant Period (Grant Period).

**2.2 GRANT PERIOD**

The Grant Period will begin upon the execution of the THECB Notice of Grant Award (NOGA) and will conclude on November 30, 2022, for an approximately 24-month Grant Period. Awarded Applicants will have contractual obligations that extend beyond the Grant Period.

At the THECB’s sole discretion, the second year of funding (December 1, 2021 - November 30, 2022) will be contingent upon the Awarded Applicant using the grant funds according to the grant contract terms and conditions, meeting established benchmarks and contractual deadlines, and producing expected outcomes and results in the first year (upon NOGA execution - November 30, 2021) of the Grant Period.

**2.3 SELECTION FOR FUNDING**

The funding available to support NIGP Grants in Fiscal Years (FY) 2020 and 2021 will be allocated among selected Applicants. Criteria for evaluation and selection of Applications for Awards are described in Section 7.

**2.4 APPLICATION TIMELINE**

The application process for this RFA is anticipated to proceed according to the published application timeline. The THECB reserves the right to revise this timeline or any portion of this RFA by publishing an Addendum. A Calendar of Events for the entire Grant Period is in Appendix B.

<b>Dates</b>	<b>Application Steps</b>
August 26, 2020	Inquiry Deadline
September 1, 2020	Application Deadline
Mid-November 2020	THECB Announcement of Grant Awards

**3. ELIGIBILITY REQUIREMENTS**

**3.1 ELIGIBLE APPLICANT**

An Eligible Applicant (Eligible Applicant or Applicant) is a program approved by the Texas Board of Nursing that prepares Texas students for initial licensure as registered nurses at Texas public institutions of higher education and Texas independent higher education institutions, as defined in Texas Education Code 61.003. A nursing program currently designated as Conditional Approval under Texas Administrative Code, Title 22, Section 215.4, by the Texas Board of Nursing is an Eligible Applicant; however, please refer to Section 6.1, which details conditions leading to funding reduction or termination.

**3.2 ELIGIBLE PROJECTS**

Through available NIGP funds, this RFA supports eligible Applicants’ efforts to mitigate the challenges related to initial RN licensure students’ clinical learning experiences due to COVID-19. The pandemic has particularly impacted availability of opportunities for hands-on patient care and simulation lab activities as a result of clinical and institutional facilities being closed to students in spring 2020, leaving nursing programs looking for viable substitutes for clinical learning experiences. A probable consequence of the pandemic could entail the need for students to engage in increased hands-on practices to ensure development of their skills and competencies upon return to their campuses. Other consequences impacting students’ clinical learning are also likely due to the evolving nature of the pandemic.

Given the known challenges in clinical learning experiences, projects to be supported under this RFA may address one or more of the following components (a-g) for initial RN licensure nursing education. The components addressed by each project must not be fully supported by

institutional or other funds available to the initial RN licensure program or collaborating partners.

- a. Professional development plans for simulation instruction, including evidence-based debriefing, and/or distance education to promote clinical learning
- b. Curricular modification, lesson design, and scenario development to allow alternative strategies, including through distance education, to help students meet specific clinical objectives
- c. Facilitation of faculty's debriefing with students, including through online formats, for clinical learning experiences
- d. Simulated virtual clinical learning experiences with high fidelity level that include realistic or interactive patient scenarios
- e. Synchronous or asynchronous demonstration and evaluation of skills and competencies
- f. Collaboration among initial RN licensure programs, that are eligible under this RFA, to share resources and expertise
  - o Each eligible program participating in a partnership may submit an Application, and each collaborating program submitting an Application will be expected to focus NIGP support on complementary but unduplicated efforts.
- g. On-campus hands-on practice and demonstrations (upon resumed access to campus)

Each Applicant institution shall name two project directors with administrative and practical experience with nursing clinical instruction who will be responsible for implementing and overseeing the NIGP-funded project and who are full-time educators, including tenure- and non-tenure-track faculty and institutional administrators. Awarded Applicants, in implementing the NIGP-funded projects, should adopt evidence-based practices and ensure compliance with Texas Board of Nursing regulations regarding clinical learning experiences and, for accredited nursing programs, with accrediting agencies' requirements.

Awarded Applicants will attend two virtual meetings organized by the THECB during the Grant Period; the meetings dates are listed in Appendix B: Calendar of Events. The meetings are expected to begin at 9:00 a.m. and end by 1:00 p.m. **For the first meeting, both project directors' attendance will be required.** The Texas Board of Nursing will participate in the first meeting to provide crucial guidelines regarding evidence-based practices, and faculty at NIGP-funded programs will be encouraged to attend the meeting. If staff at the Applicant institution has limited experience with NIGP grant requirements, it is strongly recommended that an additional institutional representative who will be providing administrative oversight and support to the NIGP-funded project also attend the first meeting as the THECB will review requirements for grants funded under this RFA.

### **3.3 PRIORITY PROJECTS**

Applications that meet the Priority Criteria in Section 7.2 will be given priority in the award selection process.

### **3.4 MAXIMUM NUMBER OF APPLICATIONS PER APPLICANT**

An Eligible Applicant may submit a maximum of one (1) Application. However, the THECB may limit the number of Grants awarded to each institution of higher education.

### **3.5 NOTICE OF INTENT TO APPLY**

A Notice of Intent to Apply is not required for this RFA.

## 4. APPLICATION SUBMISSION

### 4.1 APPLICATION DEADLINE: 11:59 p.m. CDT, September 1, 2020

Please refer to the NIGP website ([www.highered.texas.gov/NIGP](http://www.highered.texas.gov/NIGP)) to view and download the NIGP Application Form. Applications to be considered for possible Grant Awards must be:

- completed according to the guidelines in Section 8;
- submitted by an authorized agent of the Applicant institution; and
- submitted via email to [NIGP@highered.texas.gov](mailto:NIGP@highered.texas.gov).

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*Late or incomplete Applications will not be accepted. Applications submitted to an address different from [NIGP@highered.texas.gov](mailto:NIGP@highered.texas.gov) will not be accepted.*

*THECB will not accept mailed, hand-delivered, or faxed Applications.*

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Submission of an Application confers no rights of Applicant to an award or to a subsequent Contract if there is one. The issuance of this RFA does not guarantee that a Contract will ever be awarded. The THECB reserves the right to amend the terms and provisions of the RFA, negotiate with Applicant, add, delete, or modify the Contract and/or the terms of Application submitted, extend the deadline for submission of Application, or withdraw the RFA entirely for any reason solely at the THECB's discretion. An individual Application may be rejected if it fails to meet any requirement of this RFA. The THECB may seek clarification and additional documentation from Applicant at any time, and failure to respond within a reasonable timeframe is cause for rejection of an Application.

### 4.2 THECB CONFIRMATION OF APPLICATION RECEIPT

The THECB shall not be responsible for Applications that are captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by THECB or Applicant antivirus or other security software.

The THECB will confirm Application receipt via email within **three (3)** state business days of receipt by the THECB. If an Applicant does not receive such confirmation from the THECB, contact the Point of Contact listed in Section 1.4 immediately. Applicant will be required to provide proof of timely submission of the Application.

### 4.3 COST OF APPLICATION PREPARATION

All costs associated with the preparation and submission of an Application for this RFA are the responsibility of Applicant. These costs shall not be chargeable to the THECB by any successful or unsuccessful Applicant.

### 4.4 APPLICATION DELIVERY AND LATE APPLICATIONS

Applications must be submitted by an authorized agent of the Applicant.

Applications shall be considered to be "on time" if they are received on or before the date and time of established deadlines. Applicant shall be solely responsible for ensuring that Application is received by the THECB prior to the deadlines outlined in Section 4. The THECB shall not be responsible for failure of electrical or mechanical equipment, operator error, or inability of an electronic delivery agent to deliver an Application prior to the deadline. Failure to respond in a timely manner to this RFA shall result in Applicant losing the opportunity to receive a Grant under this program. A late Application, regardless of circumstances, shall not be evaluated or considered for award.



## **5. PROGRAM BACKGROUND**

### **5.1 DETAILED PROGRAM OVERVIEW**

In 1999, the 76th Texas Legislature created the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-related Programs funded with proceeds from the state's Tobacco Lawsuit Settlement. To alleviate the state's nursing shortage, through the passage of House Bill 1401, the 86th Texas Legislature directed the THECB to continue administering the permanent fund to award grants to programs preparing students for initial licensure as RNs or programs preparing nursing faculty who hold a master's or doctoral degree.

This RFA seeks to support eligible initial RN licensure programs as they address challenges due to the COVID-19 pandemic. The pandemic has overwhelmed healthcare facilities and has led to many facilities' decision to close their doors to initial RN licensure programs, reducing opportunities for students to engage in clinical learning experiences involving hands-on patient care. Higher education institutions, furthermore, temporarily transitioned to online distance learning in response to COVID-19, prohibiting access to campus facilities.

Specifically, through this RFA, NIGP funding will be provided to support the nursing programs' use of less traditional forms of clinical instruction, including simulation, to provide evidence-based alternatives to hands-on practice with patients and to alleviate the immediate challenges due to the diminished access to facilities and possible long-term impacts on students' clinical learning experiences due to continued concerns stemming from the pandemic. Section 3.2, Eligible Projects, provides a list of project components to be supported by NIGP.

Initial RN licensure programs receiving NIGP funding support under this RFA must comply with Texas Board of Nursing regulations regarding clinical learning experiences and, for accredited nursing programs, with accrediting agencies' requirements.

## **6. PROJECT REQUIREMENTS**

### **6.1 FUNDING RESTRICTION**

There is no matching fund requirement under this RFA. NIGP funds shall not be substituted for any other funds available to the Applicant or any collaborating program or project partners. Awarded Applicants will be required to return to the THECB any NIGP funds expended as substituted funds.

Prohibited costs listed in Section 6.2.2 cannot be charged to the grant. Awarded NIGP funds shall be spent only on approved expenses, including costs in any approved addenda to the grant Application through the budget negotiation described in Section 8.5 to determine a Final Award Budget and through budget changes performed in accordance with Section 6.2.3. Note that all addenda to the Grantee's Application are incorporated into the legally binding agreement created by the execution of the THECB Notice of Grant Award.

If during the Grant Period, an Awarded Applicant should lose its Texas Board of Nursing approval or cease to offer initial RN licensure education, the THECB may reduce grant funding or terminate the grant award.

### **6.2 ALLOWABLE COSTS AND PROHIBITED COSTS**

#### **6.2.1 Allowable Cost Categories**

Reasonable costs in the common cost categories listed below in this section will be allowed in the Final Award Budget, which the THECB will negotiate with each Awarded Applicant to finalize. Applicant should refer to Section 8.5 for the specific budget categories to be included in the Final Award Budget.

- Compensation for faculty and staff at the Applicant institution, including for work

performed related to simulation, curriculum, and clinical evaluation to address challenges related to clinical learning experiences due to COVID-19

- Costs for staffing must reflect institutional salaries of the Eligible Applicant or project partner appropriate to the tasks that will be performed and to the length and time spent on the project.
- Graduate assistantships supporting clinical learning experiences
- Faculty and staff training
- Capital and non-capital equipment, including required supporting software
  - *Equipment, including software, with a unit price higher than \$5,000 purchased with NIGP funds must be delivered on or prior to November 30, 2021. All equipment purchased with NIGP funds shall be in use and serving its intended purposes as specified by Applicant. The THECB will not provide NIGP funding if equipment is not delivered by the deadline or is not serving its intended purposes, and Awarded Applicant will be required to return the funds it has received from the THECB.*
- Facility space renovations, without structural changes, solely for making existing space suitable for use of evidence-based alternatives to students' hands-on practice with actual patients
  - *Renovation work supported with NIGP funds must be completed on or prior to December 31, 2021. The THECB will not provide NIGP funding if the work is not completed by the deadline and Awarded Applicant will be required to return the funds it has received from the THECB.*

### 6.2.2 Prohibited Costs

The following types of costs shall not be included in the NIGP budget or be paid with NIGP Grant funds:

- Costs incurred prior to the Grant Period
- Costs already budgeted, encumbered, or incurred with other funds available to the Applicant or partners
- Student financial assistance that is not graduate assistantships supporting clinical instruction
- Salaries or other forms of personnel compensation that are calculated at a higher pay rate than that which an individual normally receives in a position (or in a similar position)
- Incentive payments, including but not limited to gift cards or gas cards
- Construction of facilities, major renovations including structural changes, architect's fees, and feasibility studies
- Fees for facility rental at the Applicant institution
- Application fees and costs related to institutional or programmatic accreditation
- Warranties, protection plans, and service contracts beyond the standard coverage period that is included in the purchase price of approved equipment
- Food and beverages not considered as per diem for travel
- Alcohol
- Foreign travel
- Travel not consistent with state of Texas guidelines relating to type (transportation, lodging, meals), funding basis (as actual cost, per diem, mileage), cost effectiveness, and reasonableness
- Indirect costs

### 6.2.3 Budget Changes

Submission of a Budget Change Request to [NIGP@highered.texas.gov](mailto:NIGP@highered.texas.gov) and prior written approval from the THECB are required to allow changes to the Final Award Budget

established per Section 8.5 of this RFA, adjustments to NIGP-supported expenditures, or charge of the following costs to the grant:

- Equipment, software, licenses, memberships, or subscriptions not specifically identified and itemized in the Final Award Budget
- Domestic travel not specifically itemized in the Final Award Budget
- Salaries, compensation, fringe benefits, or positions not specifically identified and justified in the Final Award Budget
- Facility space renovation not specifically identified and justified in the Final Award Budget
- Expenditures in the Other Direct Costs budget category that are not specifically identified and justified in the Final Award Budget
- Transfer of budgeted funds, as approved in the Final Award Budget, across budget categories specified in Section 8.5 that cumulatively exceed 10 percent of the total Grant Award during the Grant Period

Budget Change Request approval must be received in writing from the Point of Contact for NIGP.

## **7. AWARD SELECTION CRITERIA**

Each Applicant shall satisfy Section 3, Eligibility Requirements, to be considered during the award selection process. Grant Awards will be made on an allocation basis. The THECB will adopt a funding allocation methodology, incorporating criteria and categories specified in this RFA, to distribute available NIGP funding among selected Applicants.

This RFA is designed to issue Grant Awards that provide the best overall value to the state and in accordance with the goals of the RFA. Selection criteria shall be based on eligibility requirements, funding priorities, and other factors, including past performance on THECB grants.

### **7.1 APPLICATION SCREENING**

THECB staff shall conduct an initial screening of Applications to determine adherence to the grant program requirements contained in the RFA. An Application must meet the RFA requirements and be submitted with proper authorization on or before the day specified by the THECB to qualify for further consideration.

All incomplete, ineligible, or otherwise non-compliant applications will not be considered for funding. It is anticipated that THECB staff will notify Applicants eliminated through the screening process within 30 days of the Application submission deadline.

Each Application that passes the initial screening for completeness and eligibility will be further considered for award selection according to the funding priority categories and general selection criteria described in Sections 7.2 and 7.3.

### **7.2 PRIORITY CRITERIA FOR AWARD SELECTION**

An Eligible Applicant will receive priority for funding based on the criteria described in this section. A higher level of funding priority will be given to Applicants that meet both criteria. In addition, criterion (1) conveys a higher level of priority than (2). However, the THECB may limit the number of Grants awarded to each institution of higher education as stated in Section 3.4.

- (1) Initial RN licensure education programs that have not previously been awarded funding under the NIGP *Building Simulation and Skills Lab Capacity* (2018-2019 and 2017-2018) or *Building Lab and Simulation Capacity* (2015-2016) initiative will receive funding priority.
- (2) As rural communities typically have limited resources, initial RN licensure education programs located in counties without the designation of "metropolitan" by the United

States Office of Management and Budget (OMB) and the Census Bureau will receive funding priority.

### **7.3 GENERAL CRITERIA FOR AWARD SELECTION**

THECB staff will review and evaluate the Applications that satisfy the initial screening, while also assigning priority for funding as applicable per Section 7.2. Past performance on THECB grants will be considered by THECB staff in the award selection process. NIGP awards under this RFA will be made on an allocation basis to selected Applicants consistent with a methodology to be determined by the THECB that is based on available funding and the number of eligible applications received, and that incorporates criteria and categories specified in Section 7 of the RFA. The total NIGP funding amount per Grant Award for the Grant Period will not exceed \$200,000.

### **7.4 RECOMMENDATION FOR FUNDING**

THECB staff shall make a recommendation of selected Applicants to be funded to the Commissioner of Higher Education, who will submit his funding decision to THECB Board members for their final approval as consistent with Texas Administrative Code, Title 19, Section 1.16.

## **8. APPLICATION FORMAT AND CONTENT**

Each NIGP grant Application must include required elements described in Sections 8.1 through 8.7 of this RFA, which correspond to the headings in the Application Form. The Application Form is available on the THECB website: [www.highered.texas.gov/NIGP](http://www.highered.texas.gov/NIGP). Do not alter the Application Form; any such alterations may result in the disqualification of the Applicant. In preparing the Application, Applicants shall provide complete and accurate information to allow reviewers to clearly evaluate the Application.

The completed Application Form shall be submitted with signatures as one file in PDF format; the file name shall read as the initials of the Applicant institution.Application.pdf (e.g., UNT.Application.pdf). As applicable and as a separate file, allowable Attachments shall be prepared according to the guidelines in Section 8.8, and the file name for Attachments shall read as the initials of the Applicant institution.Attachment.pdf (e.g., UNT.Attachment.pdf). In order to be accepted and considered by the THECB, the completed Application and any applicable Attachments must be submitted by the established deadline of September 1, 2020, 11:59 p.m. CDT, by an agent of the Applicant institution who is authorized to make the submission on behalf of the Applicant.

### **8.1 CERTIFICATION OF APPLICATION INFORMATION**

The Certification Page provides a signature by an authorized institutional representative to certify the accuracy and completeness of information submitted in the Application. The signatory must be an individual who is legally authorized to bind the Applicant institution in a contract. An Applicant institution's failure to provide true and accurate information will be cause for disqualification of an Application or termination of a Contract resulting from this RFA.

### **8.2 PROJECT NARRATIVE**

#### **8.2.1 Contact Information**

In the Application Form, provide the following:

- Contact information for the two required project directors. Note requirements in Section 3.2.

- Information for the contact at the Applicant institution's office of sponsored projects, or a comparable administrative unit that provides oversight for grant-supported projects at the institution.

### 8.2.2 Project Summary

Using the tables and space in the Application Form, provide the following information for the proposed project seeking to support the initial RN licensure program with NIGP funding:

- (1) Use "Yes" and "No" to indicate if each project component listed in Section 3.2, Eligible Projects, will be targeted and, as applicable, identify the eligible initial RN licensure programs that will serve as project partners to share resources and expertise.
- (2) Specify actual or projected numbers of total enrolled students, who are Texas residents, for the semesters and program tracks listed in the Application Form. **No out-of-state students should be included.** Separate numbers of full-time (FT) and part-time (PT) students. The initial RN licensure program tracks for which to provide information include: generic (traditional) track for unlicensed non-high-school students; dual credit high school track; and transition tracks for licensed vocational nurses (LVN), paramedics, emergency medical technicians (EMT), allied health professionals, military personnel, and students with a prior non-nursing degree. If a listed program track is not offered by the initial RN licensure program, leave the field blank.
- (3) In the space provided in the Application Form, explain how projected enrollment numbers for the offered initial RN licensure program tracks are derived, including if applicable how the Conditional Approval status designated by the Texas Board of Nursing is taken into account.

### 8.2.3 Description of Applicant and Partners

In no more than two pages:

- provide information about the Applicant institution, its initial RN licensure program, including program tracks, and characteristics of the institution that could be conducive to the planning and implementation of the project proposed for NIGP funding;
- briefly list project directors' qualifications and relevant experiences; and
- if the targeted project components indicated in Section 8.2.2 include collaboration among eligible initial RN licensure programs, provide information on how the Applicant institution and the collaborating program(s) would be expected to participate in the project, including information about roles and contributions.

### 8.2.4 Assessment of Need

In no more than two pages, describe the following:

- The challenges related to COVID-19 and clinical learning experiences currently faced and anticipated by the initial RN licensure program that will be addressed in the proposed project. The description should correspond to the information provided in Section 8.2.2 regarding targeted project components.
- The program track(s) on which the proposed project will focus.
- Resources required to address the challenges, including the Applicant institution's commitment and resources available to the project. Delineate any relationship

between the proposed project and other related programs or projects managed by the Applicant's faculty and staff, including how the proposed NIGP project would ensure that resources would not be expended on overlapped or duplicated efforts.

- How NIGP funds, if awarded, would be utilized to address the identified challenges.

### 8.3 PROJECT WORK PLAN OR TIMELINE

Given the changeable nature of the COVID-19 pandemic, a specific project work plan or timeline is not required under this RFA as all NIGP-funded projects will embrace the goal of supporting initial RN licensure students' clinical learning experiences. During the Grant Period, Awarded Applicants will report project progress per Section 10 of this RFA.

In this section of the Application Form, each Applicant will indicate understanding of key requirements, as outlined in the Application Form, concerning the implementation of projects funded under this RFA. All Awarded Applicants shall demonstrate compliance with **all** grant requirements and maintain communication with the THECB Point of Contact to request approval for changes that are needed to address challenges in project implementation.

#### 8.3.1 Project Goal Statement

A separate document is not required under this RFA.

#### 8.3.2 Major Project Objectives and Expected Outcomes

A separate document is not required under this RFA.

### 8.4 PROJECT EVALUATION

Each Awarded Applicant is required to complete a project evaluation, which focuses on student clinical competencies, and should ensure that necessary approval from the Institutional Review Board is obtained and that the Family Educational Rights and Privacy Act (FERPA) is followed. Awarded Applicants must document project status and progress during required grant reporting (see Section 10).

The THECB may conduct an evaluation to assess the statewide effectiveness of the NIGP program, and participation is expected from all NIGP projects funded as a result of this RFA.

In the Project Evaluation section of the Application Form:

- Use the Performance Measures and Outcomes table to specify baselines and project outcomes for the following required performance measure for all NIGP projects funded under this RFA:
  - Student clinical competencies achieved *per clinical course* as measured by a *specific clinical evaluation tool*

Each clinical course for each program track in the initial RN licensure program will be listed separately in the Performance Measures and Outcomes table with a specified clinical evaluation tool. For each course:

- Provide a baseline.** A baseline is the measure of the targeted population (e.g., students) at the beginning of the project. As applicable, Applicant may use aggregated information pertaining to the cohort immediately prior to the project as the baseline (e.g., percentage of students meeting objectives in fall 2019).
- Specify annual proposed outcomes.** Proposed outcomes can be identical to the baseline, if the project goal is to maintain the level of student performance achieved prior to the NIGP funding. Awarded Applicants will report actual Year 1 outcomes in the interim project report and Year 2 outcomes in final project report (see Section 10).

- b. In no more than one page, describe the general timeline and methods for data collection, including data sources, to ensure that the NIGP-funded project will be able to provide progress reports and student clinical competency information.

## 8.5 BUDGET

Because the specific needs related to students' clinical learning experiences may continually develop and evolve while the THECB determines a funding allocation methodology, a proposed budget is not required at the time of Application submission. As the THECB finalizes the methodology for funding allocation, the THECB shall negotiate a Final Award Budget with each selected Applicant. Each Applicant will submit a budget, using a template provided by the THECB, that includes planned annual expenditures under each budget category listed below. The submitted budget must specify and explain the proposed costs for budget categories A-E, including itemized detail, justification, and calculation for each proposed cost. All NIGP requirements listed in Section 6 of this RFA will be applicable for this Final Award Budget, including the restriction on substituting NIGP funds for other funds available to the Applicant or any collaborating program or project partners.

The Final Award Budget must be approved by the THECB and signed by a representative legally authorized to bind the Applicant institution in a contract and will be incorporated as an addendum to the grant Application and made a part of the grant award contract. Awarded Applicants will provide information about actual expenditures through financial reports (see Section 10).

### NIGP Budget Categories:

- *A. Personnel* – itemized salaries and fringe benefits or other forms of compensation by specific employees (e.g., project director's salary) or categories of employees (e.g., generic track faculty's salaries) at the Applicant institution. Personnel costs must be directly related to work performed to address barriers in clinical learning experiences due to the COVID-19 pandemic. Time spent on research activities or publications must not be charged to NIGP.
- *B. Faculty and Staff Development* – itemized costs for proposed training for employees of the Applicant institution. As applicable, specify the length of subscription and/or membership. If proposed training opportunities require domestic travel, the entries shall be itemized by specific trip (e.g., January 2021 professional conference in Dallas). The THECB will not fund travel to professional conferences that are outside of the United States or that are not relevant to this RFA.
- *C. Equipment and Software* – detailed description and justification of each proposed item. As applicable, specify the length of subscription. If multiple purchases of the same item are proposed, the entry shall include the total cost and the unit price information as [*number of items @ unit price*].
- *D. Facility Space Renovation* – detailed description, location, and justification of the proposed work to make existing space suitable for evidence-based alternatives to students' hands-on practice with actual patients. Entries shall be itemized and, if applicable, list the unit price and total number of each item requested.
- *E. Other Direct Costs* – detailed description and justification of all other costs relevant to this RFA that are not included in budget categories A-D. Budget items included in this category shall be subject to special review by THECB staff.

## 8.6 FINANCIAL VIABILITY

A separate document is not required under this RFA.

## **8.7 EVIDENCE OF LEADERSHIP COMMITMENT**

A separate document is not required under this RFA. The signature on the certification page by the representative authorized to bind the Applicant institution certifies that the institution receiving NIGP funding are fully committed to the NIGP grant requirements and the work to be performed under NIGP funding support.

The NIGP project directors at the institution, should an award be made, are required to keep their leadership apprised of the project's performance and fulfillment of grant requirements during the Grant Period.

## **8.8 ATTACHMENTS**

The following Attachments are allowed under this RFA and, if applicable, shall be submitted with the completed Application Form as a single separate file via email to [NIGP@highered.texas.gov](mailto:NIGP@highered.texas.gov) no later than the Application deadline of September 1, 2020, 11:59 p.m. CDT. The file name for the Attachments shall read as the initials of the Applicant institution.Attachment.pdf (e.g., *UNT.Attachment.pdf*).

Applicant shall not include documents as attachments or appendices that are not specified in this section; such documents will be discarded and will not be reviewed during application evaluation. Any file of Attachments that is not submitted with the completed Application Form by the established deadline will not be considered.

- Letters indicating leadership commitment from Applicant's senior management on official letterhead (optional)
- If applicable, a letter from Applicant requesting the THECB's consideration of exceptions to specific terms and conditions described in the RFA. Any exceptions must be clearly identified by section, and the Applicant's proposed alternative must be provided. Applicants cannot take a "blanket exception" to this entire RFA. If any Applicant takes a "blanket exception" to this entire RFA or does not provide alternative language, the Applicant's Application may be disqualified from further consideration. Any terms and conditions attached to an Application will not be considered unless specifically referred to in this RFA, and the Applicant's attachment of such terms and conditions to an Application may disqualify the Application. The letter must be signed by an individual legally authorized to bind the Applicant institution.

## **9. DISTRIBUTION OF AWARD FUNDS**

### **9.1 ISSUANCE OF GRANT AWARD**

Following all negotiations between the THECB and Applicants and the announcement of awards, the Awarded Applicants will receive an electronic copy of the THECB's NIGP Notice of Grant Award (NOGA, Appendix E), which will take effect on the day the NOGA is fully executed. Throughout this RFA, the terms "NOGA," "Award," "Contract," and "Grant" are used interchangeably.

The Contract must be executed by an individual authorized to enter into a contract on behalf of the Applicant institution. Upon execution of a Contract resulting from this RFA, the term "Applicant" shall have the same meaning as "Awarded Applicant" or "Grantee." The Texas Higher Education Coordinating Board, a state agency, may also be referred to as the "THECB," "Board," or "Agency." At times, THECB or "Board" and Grantee are referred to singularly as "Party" and collectively as "Parties." Likewise, the terms "Request for Applications" and "Application" shall have the same meaning as the term "Contract" or "Agreement."



## **9.2 "DISCLOSURE OF INTERESTED PARTIES" REQUIREMENT**

The THECB may not execute a grant contract requiring approval of the Board Chair, Vice Chair, and Committee Chair until a non-state business entity has presented a certificate disclosing interested parties. For-profit organizations, not-for-profit organizations, and private institutions selected for an award must complete this requirement before a grant award contract can be executed. For this RFA, independent institutions of higher education awarded a grant will be required to complete the requirement. Further information relating to Disclosure of Interested Parties is provided in Section 11.25 of this RFA.

## **9.3 FUNDS DISBURSEMENT AND PAYMENT TERMS**

NIGP Grant Award funds will be disbursed according to the following provisions of this RFA.

NIGP Grants are funded through the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-related Programs established by the 76th Texas Legislature in 1999. Awarded Applicant shall receive payments through the Texas Comptroller of Public Accounts.

To enable Awarded Applicant to expeditiously address immediate needs related to clinical learning experiences, the THECB will disburse 25 percent of the awarded funding when (1) the NOGA has been fully executed, (2) the Grant Period has started, (3) the Final Award Budget has been approved by the THECB per Section 8.5 of the RFA, and (4) if applicable, the Disclosure of Interested Parties has been received and acknowledged by the THECB. The remaining awarded funding will be provided on a cost-reimbursement basis.

Awarded Applicant will submit certified reports with actual expenditures of the NIGP-funded project, including supporting documentation for the reported expenditures, on the schedule specified in Section 10.3. Any reported expenditures that exceed the 25 percent of advance funding paid by the THECB will be reimbursed upon the THECB's approval of the certified expenditure reports. Total reported expenditures must not exceed the amount provided by the Grant Award. The final payment by the THECB will be made upon the THECB's approval of the final project report, which is described in Section 10.2, and of the final expenditure report.

At the THECB's sole discretion, the second year of grant funding is contingent upon the Awarded Applicant using grant funds appropriately, meeting project benchmarks and contractual deadlines, and producing expected outcomes in the first year of the Grant Period.

Awarded Applicant shall not expend awarded funds until the NOGA has been fully executed, the Grant Period has started, and the Final Award Budget has been approved. The THECB is not bound by any award estimates in the RFA. Funding may be reduced or terminated if funds allocated to the THECB should become reduced, depleted, or unavailable during the Grant Period. As consistent with the Uniform Grant Management Standards ("UGMS"), after making a finding that an Awarded Applicant has failed to perform or failed to conform to grant contract terms and conditions, the THECB may retract or reduce the grant amount for the Awarded Applicant.

## **9.4 LAST DAY OF EXPENDITURES**

All allowable grant-related expenses must be incurred on or before November 30, 2022. Expenses incurred after this date cannot be charged to NIGP.

## **9.5 RETURN OF UNEXPENDED FUNDS**

Based on actual expenditures of the project, Grantee shall return any unexpended funds to the THECB within ninety (90) days after the end of the Grant Period, unless an extension is otherwise agreed upon by the THECB and Grantee. If an Award is terminated, Grantee shall return any remaining funds within ninety (90) days upon award termination.

Any awarded funds that are not paid by the THECB and that are not expended by the Awarded Applicant remain with the THECB and will be unencumbered upon close-out of each awarded grant contract.

## **9.6 GRANT EXTENSION**

Extension of the Grant Period for the NIGP-funding project may be granted at the sole discretion of the THECB. An Awarded Applicant that shows success in project outcomes may be eligible to request a grant extension to fully complete grant project activities and objectives. Including any approved grant extension, the maximum award length for an NIGP grant will be a total of three years.

No later than June 30, 2022, using the template provided by the THECB, Awarded Applicant must submit to [NIGP@highered.texas.gov](mailto:NIGP@highered.texas.gov) a formal extension request signed by an authorized institutional representative who is legally authorized to bind the grantee institution in a contract. Extensions are subject to the availability of appropriated funds and to the eligibility requirements.

## **10. MONITORING AND REPORTING REQUIREMENTS**

### **10.1 MONITORING**

THECB staff shall monitor and oversee the NIGP-supported project's progress and compliance through required reporting to ensure that grant commitments are fulfilled and that the financial matters related to the grant award are accurate and appropriate. Awarded Applicant shall be required to complete reports listed in Sections 10.2 and 10.3 for an NIGP grant awarded as a result of this RFA. The THECB will provide templates and instructions for electronic submission for required reports.

When a report submission date falls on a weekend or a holiday, the submission deadline is automatically extended to the next state of Texas business day (see Appendix A, RFA Definitions). If Awarded Applicant does not submit the required reports detailed in Sections 10.2 and 10.3 by the established deadlines, and the Awarded Applicant has not been granted a submission extension, the THECB reserves the right to reduce the awarded funding. If a required report is not accepted by the THECB, reduction of the awarded funding may be required. Delinquent and unaccepted reports may affect Awarded Applicant's eligibility to receive the second year of NIGP funding or to apply for future THECB grant awards, and Awarded Applicant may be deemed non-compliant and subject to termination per Section 11.1.

### **10.2 PROJECT/PROGRAM NARRATIVE REPORTS**

Awarded Applicant shall submit the following reports on or before the dates specified by the THECB to provide information on the progress of the NIGP-funded project. The THECB will provide templates and instructions for the specific format and content required for each report. All required reports must be certified by the project directors and an authorized institutional representative who provides independent oversight of the NIGP-funded project.

1. **January 6, 2022:** Interim project report
2. **January 18, 2023:** Final project report

### **10.3 FINANCIAL REPORTS**

Awarded Applicant shall submit four financial expenditure reports as specified by the THECB due on or before the following dates. The THECB will provide templates and instructions for the expenditure reports. For each report, Awarded Applicant must include supporting documentation, including but not limited to itemized descriptions for the reported actual expenditures. Each report must be certified and submitted by an authorized institutional

representative who provides independent oversight of the NIGP-funded projects' financial management.

1. **June 15, 2021:** First expenditure report for the period between NOGA execution and May 31, 2021
2. **December 14, 2021:** Second expenditure report for the six-month period of June 1, 2021 through November 30, 2021
3. **June 15, 2022:** Third expenditure report for the six-month period of December 1, 2021 through May 31, 2022
4. **February 22, 2023:** Final expenditure report for the six-month period of June 1, 2022 through November 30, 2022

## **11. TERMS AND CONDITIONS**

### **11.1 TERMINATION**

Notwithstanding the termination or expiration of this Contract, the provisions of this Contract regarding confidentiality, indemnification, transition, records, right to audit and independent audit, property rights, dispute resolution, invoice and fees verification, provision of services, and default shall survive the termination or expiration dates of this Contract.

#### **11.1.1 Convenience of the State**

THECB, in its sole discretion, may terminate this Grant Award/Agreement upon one (1) calendar day's written notice to Grantee. Such notice will be provided in accordance with Section 11.36, Notice, of this Grant Award/Agreement. In the event of such termination, the Grantee shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. THECB will be liable only for payments for any deliverables received from or services performed by the Grantee before the termination date.

#### **11.1.2 Termination for Cause**

THECB may, by written notice to Grantee, immediately terminate this Grant Award/Agreement for cause if: (a) THECB is not reasonably satisfied with Grantee's Services; (b) default or abandonment by Grantee occurs; or (c) Grantee fails to comply fully with any term or condition of this Grant Award/Agreement, through no material fault of THECB. If THECB deems it appropriate under the circumstances, THECB will provide a three (3) business day advance written notice of intent to terminate to Grantee, and THECB will provide Grantee with an opportunity for consultation with THECB prior to termination during that three (3) business day period.

If Grantee fails or refuses to perform its obligations under this Grant Award/Agreement, THECB may exercise any and all rights as may be available to it by law or in equity. In the event THECB exercises its right to terminate for cause, Grantee is responsible for paying damages to THECB including but not limited to re-procurement costs (if applicable), and any other consequential damages to the State of Texas and THECB resulting from Grantee's non-performance.

#### **11.1.3 Abandonment or Default**

If the Grantee Abandons or Defaults on the Grant Award/Agreement, THECB reserves the right to terminate the Grant Award/Agreement without notice and

either re-solicit or re-award the Grant Award/Agreement to the next best responsive and responsible Grant Applicant. The defaulting Grantee will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by THECB based on the seriousness of the default.

#### **11.1.4 Applicable Law and Conforming Amendments**

THECB may terminate this Grant Award/Agreement immediately upon notice to Grantee in the event federal or state law is enacted, amended, or judicially interpreted so as to render continued fulfillment of the Grant Award/Agreement, on the part of THECB, wholly unreasonable or impossible. THECB reserves the right, at its sole discretion, to unilaterally amend this Grant Award/Agreement throughout the Grant Award/Agreement Term to incorporate any modifications necessary for THECB's compliance, as an agency of the State of Texas, with all applicable state and federal laws, rules, regulations, requirements, and guidelines.

#### **11.1.5 Excess Obligations (Non-Appropriation)**

The Grant Award/Agreement is subject to termination or cancellation, without penalty to THECB, either in whole or in part, subject to the availability of state funds.

#### **11.1.6 Effect of Termination**

Upon any termination, all indemnities, including without limitation those set forth in this Grant Award/Agreement, as well as Grant Award/Agreement provisions regarding confidentiality, records retention, right to audit, ownership, and dispute resolution, shall survive the termination of this Grant Award/Agreement for any reason whatsoever and shall remain in full force and effect. In the event of any termination, Grantee shall, unless otherwise mutually agreed upon in writing, cease all Services immediately upon the effective date of termination, except such Services that THECB deems are necessary to wind-up in a cost-effective manner. For any termination by THECB other than termination for non-appropriation, THECB shall be liable to Grantee for only that portion of the Services authorized by THECB and which have been completed prior to the effective date of termination, provided that THECB shall not be liable for any work performed that is not acceptable to THECB and/or does not meet Grant Award/Agreement requirements, plus any necessary work deemed appropriate by THECB to cost-effectively wind-up.

#### **11.1.7 Transfer of Duties**

In the event of termination, Grantee will provide reasonable cooperation to transfer its duties under the Grant Award/Agreement to another entity without disruption, if applicable.

### **11.2 AMENDMENT**

This Grant Award/Agreement may be modified only by written amendment executed by the Parties hereto; however, any amendment of this Grant Award/Agreement that conflicts with the laws of the State of Texas shall be void ab initio.

### **11.3 INDEMNIFICATION**

**(THIS SECTION DOES NOT APPLY TO STATE AGENCIES)**

Acts or Omissions: GRANTEE SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THECB AND THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, OTHER CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM, ANY ACTS OR OMISSIONS OF THE GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN EXECUTION OR PERFORMANCE OF THE GRANT AWARD/AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AWARD/AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TEXAS IF THECB AND/OR THE STATE OF TEXAS AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, OTHER CONTRACTORS, ASSIGNEES, AND DESIGNEES ARE A NAMED DEFENDANT IN ANY LAWSUIT AND THE GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE OF THE OFFICE OF THE ATTORNEY GENERAL. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

#### **11.4 SOVEREIGN IMMUNITY**

The Parties stipulate and agree that no provision of, or any part of this Grant Award/Agreement between THECB and Grantee, 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 the Laws of the State of Texas; (2) to extend liability to THECB beyond such liability provided for in the Texas Constitution and the Laws of the State of Texas; or (3) as a waiver of any immunity provided by the 11th 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 THECB do not waive sovereign immunity by entering into this Grant Award/Agreement and specifically retain such immunity and all defenses available to them under the laws of the State of Texas or the common law.

#### **11.5 ASSIGNMENT**

Grantee shall not assign its rights under the contract or delegate the performance of its duties under the Grant Award/Agreement without prior written approval from the THECB. Any attempted assignment in violation of this provision is void and without effect.

#### **11.6 DELEGATION OR SUBCONTRACTING**

Unless as otherwise provided for in this Grant Award/Agreement, no contractual rights, interest, or obligation shall be delegated or subcontracted by Grantee without prior written approval of THECB. No delegation or subcontract approved by THECB shall relieve Grantee of any obligation or responsibility under this Grant Award/Agreement. It is the Parties' intent that to the extent subcontracting is approved by THECB, Grantee shall make a good faith effort to subcontract with Historically Underutilized Business(es) (HUB), as defined in Texas Government Code §2161.001(2), during the performance of this Grant Award/Agreement. The goal of the HUB program is to promote full and equal business opportunities for all businesses contracting with the State of Texas.

#### **11.7 RIGHT TO AUDIT AND RECORDS RETENTION**

Grantee understands that acceptance of funds under this Grant Award/Agreement, or indirectly through a subcontract under this Grant Award/Agreement, acts as acceptance of the authority of the State Auditor's office, THECB or any successor agency, as well as any external auditors selected by the State Auditor's office, THECB or, in agreements involving federal funds, any auditors selected by the United States, including, but not limited to the

cognizant federal agencies and/or federal Offices of the Inspector General (collectively referred to as "Audit Entities"), to conduct an audit or investigation in connection with those funds. Grantee further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including promptly providing all records requested. Grantee will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Grantee and the requirements to cooperate is included in any subcontract it awards.

Grantee shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Grantee in connection with the Grant Project. These records and accounts (which includes all receipts of expenses incurred by Grantee) shall be retained by Grantee and made available for inspecting, monitoring, programmatic or financial auditing, or evaluation by THECB and by others authorized by law or regulation to do so for a period of not less than seven (7) years from the date of completion of the Grant Award/Agreement or the date of receipt by THECB of Grantee's final claim for payment or final expenditure report or until any litigation/billing issues are resolved, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Services provided in this Grant Award/Agreement. Grantee and any subcontractors shall provide any Audit Entities with any information such entity deems relevant to any monitoring, investigation, evaluation, or audit.

Grantee's failure to comply with this subsection (Right to Audit and Records Retention) shall constitute a material breach of this Grant Award/Agreement and shall authorize THECB and the State of Texas to immediately assess appropriate damages for such failure. THECB reserves the right to require the reimbursement of any over-payments determined as a result of any audit or inspection of records on work performed under this Grant Award/Agreement. Grantee shall reimburse THECB for any over-payments within thirty (30) calendar days of receipt of THECB's written notice.

Awarded Applicant shall have an accounting system that accounts for cost in accordance with generally accepted accounting principles. Awarded Applicant's accounting system must include an accurate and organized file/records system for accounting and financial purposes for providing backup materials for billings.

### **11.8 TIME AND EFFORT RECORDKEEPING**

For those personnel whose salaries are prorated between or among different funding sources, time and effort records will be maintained by Awarded Applicant that confirm the project work provided within each funding source. Awarded Applicant must adjust payroll records and expenditures based on this documentation. This requirement applies to all projects, regardless of funding sources, unless otherwise specified.

### **11.9 UNIFORM GRANT MANAGEMENT STANDARDS (UGMS)**

Grantee agrees to follow the UGMS, including all of its applicable conditions and State Assurances ("UGMS"). UGMS is herein incorporated for all purposes into this Agreement. All applicable conditions and uniform assurances can be found at <https://comptroller.texas.gov/purchasing/grant-management/>.

### **11.10 FORMS, ASSURANCES, AND REPORTS**

Awarded Applicant shall timely file with the proper authorities all forms, assurances and reports required by state laws and regulations. The THECB shall be responsible for reporting to the proper authorities any failure by Awarded Applicant to comply with the foregoing laws and regulations coming to the THECB's attention and may deny

reimbursements or recover payments made by the THECB to Awarded Applicant in the event of Awarded Applicant's failure to so comply.

#### **11.11 SITE VISITS**

Throughout the Grant Period, the THECB and/or its representatives shall have the right to make site visits to review the NIGP project's operations and accomplishments.

#### **11.12 SUPPLANTING PROHIBITION**

A Grant Award may not be used to replace federal, state, or local funds.

#### **11.13 CARRYOVER OF FUNDS**

At the THECB's discretion, unencumbered funds may carry over from each year of the Grant Period.

#### **11.14 APPLICABLE CONDITIONS AND UNIFORM ASSURANCES**

The standard financial management conditions and uniform assurances set out in the RFA are applicable to all grants, cooperative agreements, contracts and other financial assistance arrangements executed between state agencies, local governments, and any other sub-recipient not specifically excluded by state or federal law. All applicable conditions and uniform assurances can be found at <https://comptroller.texas.gov/purchasing/grant-management/>.

#### **11.15 STATE AUDITOR'S RIGHT TO AUDIT**

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the agreement or indirectly through a subcontract under the Grant Award/Agreement. The acceptance of funds directly under the Grant Award/Agreement or indirectly through a subcontract under the Grant Award/Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

#### **11.16 CHILD SUPPORT OBLIGATION FAMILY CODE APPLICABILITY**

By signing this Grant Award/Agreement, Grantee certifies that under Section 231.006, Family Code, Grantee is not ineligible to receive payment under this Grant Award and acknowledges that this Grant Award/Agreement may be terminated and payment may be withheld or recouped if this certification is inaccurate. If this certification is shown to be false, Grantee is liable to THECB for attorneys' fees, the costs necessary to complete the Grant, including the cost of advertising and awarding a second grant award/agreement, and any other damages provided by law or Grant Award/Agreement. Under Section 231.006 of the Family Code, the vendor or applicant certifies that the individual or business entity named in this Grant Award/Agreement, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Grant Award/Agreement may be terminated and payment may be withheld if this certification is inaccurate.

#### **11.17 DISPUTE RESOLUTION**

If THECB determines that any work product is not acceptable, THECB shall notify Grantee of the specific deficiencies in writing. Grantee shall then undertake all steps necessary to correct any deficiencies at no additional cost to THECB. In the event any issues cannot be resolved, the dispute resolution process provided for in Texas Government Code, Chapter

2260 shall be used by THECB and Grantee to attempt to resolve any claim for breach of Contract. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the Grant Award/Agreement.

### **11.18 PUBLIC DISCLOSURE**

Grantee understands and agrees that no public disclosures or news releases pertaining to this Agreement, including any results, findings or reports conducted to fulfill requirements of this Grant Award/Agreement, shall be made without prior written approval of THECB.

Prior Notification. Publication, including presentations, is encouraged; however, Awarded Applicant agrees to notify the THECB prior to the publication of any information, including results, findings, or reports, regarding the activities being conducted under any Contract/Grant resulting from this RFA. Awarded Applicant shall ensure the following statements are included in any published work:

*This work was supported in whole or in part by a grant from the Texas Higher Education Coordinating Board (THECB). The opinions and conclusions expressed in this document are those of the author(s) and do not necessarily represent the opinions or policy of the THECB.*

Potential Publication in News Media of any Type. Should Awarded Applicant be contacted by any news media about any information, including results, findings, or reports regarding activities being conducted under any Contract/Grant resulting from this RFA, Awarded Applicant shall notify its THECB Point of Contact, when possible, before communicating with news media. When not possible, Awarded Applicant shall notify its THECB Point of Contact immediately after concluding the communication with the news media.

Should Awarded Applicant desire to contact any news media about any information, including results, findings, or reports regarding activities being conducted under any Contract/Grant resulting from this RFA, Awarded Applicant shall notify its THECB Point of Contact before communicating with news media.

Any written publication shall be sent electronically to the THECB Point of Contact.

### **11.19 CONFIDENTIALITY, PUBLIC INFORMATION ACT, AND FERPA**

Notwithstanding any provisions of this Grant Award/Agreement to the contrary, Grantee understands that as a Texas state agency, THECB is subject to and will comply with the Texas Public Information Act, Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Grantee will cooperate with THECB in the production of documents responsive to any such requests under the Public Information Act at no additional charge to THECB.

#### **11.19.1 Public Information Act**

THECB will make a determination whether to submit a Public Information Act request to the Attorney General. This Grant Award/Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. Grantee will notify THECB's contact within 24 hours of receipt of any third-party requests for information it receives relating to this Grant Award/Agreement. In accordance with Section 2252.907 of the Texas Government Code, Grantee is required to make any information created or exchanged with the State pursuant to this Grant Award/Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State and shall cooperate with THECB in doing so. Grantee agrees to maintain the



confidentiality of information received from THECB and the State of Texas during the performance of this Grant Award/Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Grantee will not disclose any information to which it is privy under this Grant Award/Agreement without the prior written consent of THECB. Grantee will indemnify and hold harmless the State of Texas, its officers and employees, and THECB, its officers and employees for any claims for damages that arise from the disclosure by Grantee of information also held by the State of Texas or THECB to which Grantee is privy under this Grant Award/Agreement.

All submitted Applications become the property of the THECB after the RFA submittal deadline date. Upon acceptance of the Contract, all information submitted with Applicant's Application becomes public record and all information submitted with Awarded Applicant's Application becomes part of the Contract. Therefore, such information is subject to disclosure under the Texas Public Information Act, unless an exception under the Texas Public Information Act is applicable.

Any proprietary information included in Applicant's Application shall be subject to disclosure unless such proprietary information was clearly identified by Applicant, and such identification was submitted concurrently with the original submission of the proprietary information. Such identification of proprietary information shall be clearly marked in the Application on each page it appears. Such markings shall be in boldface type at least 14-point font. Additionally, Applicant shall state the specific reason(s) an exception from the Texas Public Information Act is being claimed concurrently with the original submission of the proprietary information.

If Awarded Applicant fails to clearly identify proprietary information with the original submission of the proprietary information, then those Sections will be deemed non-proprietary and made available upon public request after the Grant is awarded. The production of any material under the Grant shall not have the effect of violating or causing the THECB to violate any law, including the Texas Public Information Act.

#### **11.19.2 FERPA**

Grantee agrees to comply with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, and the implementing federal regulations, 34 CFR Part 99.

#### **11.19.3 Protection of Confidential Data (Covered Data and Information)**

Grantee agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in the Family Educational Rights and Privacy Act (34 CFR § 99.33 (a)(2)) and with the terms set forth in Section 11. TERMS AND CONDITIONS. 34 CFR 99.33 (a)(2) states that the officers, employees, and agents of a party that receive education record information from THECB may use the information, but only for the purposes for which the disclosure was made.

#### **11.19.4 Acknowledgment of Access to Covered Data and Information (CDI)**

Grantee acknowledges that the Grant Award/Agreement allows the Grantee access to CDI.

#### **11.19.5 Prohibition on Unauthorized Use or Disclosure of CDI**

Grantee agrees to hold CDI in strict confidence. Grantee shall not use or disclose CDI received from or on behalf of THECB except as permitted or required by the

Grant Award/Agreement, as required by law, or as otherwise authorized in writing by THECB. Grantee agrees not to use CDI for any purpose other than the purpose for which the disclosure was made.

**11.19.6 Return or Destruction of CDI**

Upon termination, cancellation, expiration or other conclusion of the Grant Award/Agreement, Grantee shall return all CDI to THECB or, if return is not feasible, destroy any and all CDI. If the Grantee destroys the information, the Grantee shall provide THECB with a certificate confirming the date of destruction of the data.

**11.19.7 Breach**

Any violation of these FERPA provisions by Grantee shall be deemed a material breach of the Grant Award/Agreement.

**11.19.8 Maintenance of the Security of Electronic Information**

Grantee shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted CDI received from, or on behalf of THECB. These measures will be extended by contract to all subcontractors used by Grantee.

**11.19.9 Reporting of Unauthorized Disclosures or Misuse of Covered Data and Information**

Grantee shall, within one hour of discovery, report to THECB any use or disclosure of CDI not authorized by this Grant Award/Agreement or in writing by THECB. Grantee's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the CDI used or disclosed, (iii) who made the unauthorized use and who received the unauthorized disclosure, (iv) what Grantee has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Grantee has taken or shall take to prevent future similar unauthorized use or disclosure. Grantee shall provide such other information, including a written report, as requested by THECB.

**11.20 INFRINGEMENTS**

GRANTEE SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS, THECB AND THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, OTHER CONTRACTORS, ASSIGNEES, OFFICERS, AND DESIGNEES FROM ANY AND ALL THIRD PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT/AWARD AGREEMENT. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TEXAS IF THECB AND/OR THE STATE OF TEXAS AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, OTHER CONTRACTORS, ASSIGNEES, AND DESIGNEES ARE A NAMED DEFENDANT IN ANY LAWSUIT AND THE GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE OF THE OFFICE OF THE ATTORNEY GENERAL. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

Grantee shall have no liability under this section if the alleged infringement is caused in whole or in significant part by: (i) THECB's use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product by THECB without Grantee's approval, (iii) any modifications made to the product by the Grantee pursuant to THECB's specific instructions, (iv) any intellectual property right owned by or licensed to THECB by a person or entity other than the Grantee, or (v) any use of the product or service by THECB that is not in substantial conformity with the terms of any applicable license agreement.

If Grantee becomes aware of an actual or potential claim, or THECB provides Grantee with notice of an actual or potential claim, Grantee may (or in the case of an injunction against THECB, shall), at Grantee's sole option and expense; (i) procure for THECB the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that THECB's use is non-infringing.

### **11.21 OWNERSHIP/WORK MADE FOR HIRE**

For purposes of this Grant Award, the term "Work" or "Work Product" is defined as all work papers, work products, materials, approaches, designs, specifications, systems, software, programs, source code, documentation methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under the contract.

Copyright. When copyrightable material is developed in the course of or under this Grant, Awarded Applicant is free to copyright the materials or permit others to do so. The THECB shall have a royalty-free, non-exclusive, fully-paid up, no cost, transferable, worldwide, and irrevocable right and license to reproduce, publish, or otherwise use and to authorize others to use for governmental and educational purposes: (1) the copyright in any work developed under the Grant and (2) any rights of copyright to which a Awarded Applicant (or any sub-grantee or subcontractor of the Grantee) purchases ownership with Grant funds. In no event shall the Awarded Applicant (or any sub-grantee or subcontractor to the Awarded Applicant) charge other Texas state agencies, institutions of higher education, or independent institutions of higher education (as the terms "institutions of higher education" and "independent institutions of higher education" are defined in the Texas Education Code) for any license to use any or all copyrights purchased with Grant funds or in any work developed under the Grant.

Data. The THECB has the right to: (1) obtain, reproduce, publish or otherwise use the data first produced under this Grant and (2) authorize others to receive, reproduce, publish, or otherwise use such data for governmental and educational purposes. In no event shall the Awarded Applicant (or any sub-grantee or subcontractor to the Awarded Applicant) charge other Texas state agencies, institutions of higher education, or independent institutions of higher education (as the terms "institutions of higher education" and "independent institutions of higher education" are defined in the Texas Education Code) for any license to use any or all data first produced under this Grant.

Grantee shall ensure that this provision, "Ownership/Work Made for Hire," is contained in any subcontract Grantee is authorized by THECB to award. Grantee shall not use, willingly allow, or cause to have such Work used for any purpose other than the performance of Grantee's obligations under this Grant Award/Agreement without the prior written consent of THECB; provided, however, that Grantee shall be allowed to use non-confidential materials for writing samples in pursuit of work or for other governmental or educational purposes.

### **11.22 GOVERNING LAW AND VENUE**

The Grant Award/Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the Awarded Applicant.

### **11.23 ADDITIONAL GRANTEE RESPONSIBILITIES**

Grantee shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of this Grant Award/Agreement, including applicable workers compensation laws, compensation statutes and regulations, and licensing laws and regulations. When requested to do so by THECB, Grantee shall furnish THECB with satisfactory proof of its compliance. Grantee shall be responsible for damage to THECB's equipment, and/or the workplace and its contents, by its, or its subcontractors' work, negligence in work, personnel, and equipment. Grantee shall be responsible and liable for the safety and health of its employees and contractors while they are performing work for THECB under this Grant Award/Agreement. Grantee shall provide all labor and equipment necessary to furnish the deliverables or perform the Services. All employees of Grantee shall be a minimum of 18 years of age and experienced in the type of work to be performed. Grantee shall permit no visitors or relatives of Grantee's employees and contractors on THECB's property unless they also are bona fide employees or subcontractors of Grantee.

Grantee hereby covenants, represents and warrants that Grantee (including, for purposes of this section, its employees, consultants, subcontractors, and agents) (1) has the technical expertise and general skills necessary to perform competently and professionally the Services in accordance with this Grant Award/Agreement, (2) is not a party to or bound by any agreement, obligation, or understanding which restricts or limits in any way Grantee's right to enter into this Grant Award/Agreement or Grantee's right or ability to perform Grantee's obligations under this Grant Award/Agreement, (3) shall not use the trade secrets, intellectual property rights, copyrights, or other proprietary rights of any third party in the performance of Grantee's obligations under this Grant Award/Agreement without having first lawfully obtained the right, in writing, to do so, and (4) has the necessary equipment, facilities and workers to perform Grantee's obligations under this Grant Award/Agreement.

### **11.24 CONFLICT OF INTEREST**

Grantee represents and warrants that Grantee, its principals, employees, or subcontractors have no potential conflict of interest in providing Services to THECB under this Grant Award/Agreement, and that the provision of Services under this Grant Award/Agreement does not create an appearance of impropriety. Failure to disclose a conflict of interest, at any time during the duration of this Grant Award/Agreement, shall be cause for termination of this Grant Award/Agreement. Grantee represents and warrants that the provision of deliverables and services or other performance under the Grant Award/Agreement will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

### **11.25 DISCLOSURE OF INTERESTED PARTIES**

The THECB may not execute a contract/grant requiring approval of the Board Chair, Vice Chair, and Committee Chair until the Business Entity has presented a certificate disclosing interested parties. "Business Entity" is defined as an entity (other than a governmental entity or state agency) through which business is conducted, regardless of whether the

entity is for-profit or nonprofit. The Texas Ethics Commission (TEC) has an online portal for vendors/grantees. Vendors/Grantees will need to create a username and password to complete the "Certificate of Interested Parties" form. After the form has been completed, print and sign before sending a final copy to the THECB at [Contracts@highered.texas.gov](mailto:Contracts@highered.texas.gov). The TEC portal link can be found at: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).

#### **11.26 FINANCIAL INTERESTS AND GIFTS**

Grantee represents and warrants that neither Grantee nor any person or entity that will participate financially in this Grant Award/Agreement has received compensation from THECB or any agency of the State of Texas for participation in preparation of specifications for this Grant Award/Agreement.

#### **11.27 ANTITRUST**

The undersigned affirms under penalty of perjury of the laws of the State of Texas that (1) in connection with this Grant Award/Agreement, neither I nor any representative of the Grantee have violated any provision of the Texas Free Enterprise and Antitrust Act, Texas Business and Commerce Code Chapter 15; (2) in connection with this Grant Award/Agreement, neither I nor any representative of the Grantee have violated any federal antitrust law; and (3) neither I nor any representative of the Grantee have directly or indirectly communicated any of the contents of this Grant Award/Agreement to a competitor of the Grantee or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Grantee.

#### **11.28 EQUAL OPPORTUNITY**

Grantee represents and warrants 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 Grant Award/Agreement.

#### **11.29 INDEPENDENT CONTRACTOR**

Grantee shall be an independent contractor in all matters relating to this Grant Award/Agreement. Grantee and its employees, agents, and subcontractors shall not be deemed or construed to be the employees or agents of THECB for any purposes whatsoever. Grantee agrees and acknowledges that Grantee, its employees and agents, and Grantee's subcontractors are independent contractors of THECB and/or the State of Texas and are not employees of THECB or the State of Texas, and Grantee agrees that it shall have complete responsibility in the area of employment law and relations regarding its own employees, contractors, and agents, including but not limited to: wrongful discharge lawsuits, unemployment issues, workers' compensation, employment taxes, any other benefits and reimbursement due to losses in these areas. Consistent therewith, Grantee agrees that it shall make its own arrangements to provide its employees with all necessary employee benefits, including unemployment and workers' compensation benefits, and THECB is, in no way, a party to such arrangements. Regarding its employees, Grantee shall have the sole authority to hire, fire, transfer, train, evaluate, discipline, pay and assign work.

Grantee agrees and acknowledges that Grantee and Grantee's employees or assistants shall not be entitled to any State of Texas benefit on account of the services provided hereunder. If THECB or the State of Texas shall nonetheless become liable for such payments or obligations, Grantee shall promptly pay or reimburse THECB or the State of Texas for such liability or obligation.

**11.30 ELIGIBILITY/AUTHORIZATION TO WORK IN THE UNITED STATES**

Grantee shall ensure that all personnel provided to perform work under this Grant Award/Agreement possess proof of eligibility/authorization to work in the United States in compliance with the Immigration Reform and Control Act of 1986, the Immigration Act of 1990 including any amendments already adopted or as may be adopted hereafter, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 including any amendments already adopted or as may be adopted hereafter. Grantee shall maintain written records on all personnel provided under the Grant Award/Agreement and shall provide such records to THECB upon request. Failure to maintain and provide records upon request shall represent a material breach of this Grant Award/Agreement and THECB shall have the right to terminate the Grant Award/Agreement for cause. Grantee shall ensure this section is included in all subcontracts it is authorized by THECB to enter.

**11.31 TAXES/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE-INCLUDING INDEMNITY**

GRANTEE AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS GRANT AWARD/AGREEMENT, GRANTEE SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF GRANTEE'S AND GRANTEE'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCE OF THIS GRANT AWARD/AGREEMENT. GRANTEE AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THECB AND/OR THE STATE OF TEXAS SHALL NOT BE LIABLE TO THE GRANTEE, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY.

GRANTEE AGREES TO INDEMNIFY AND HOLD HARMLESS THECB, THE STATE OF TEXAS AND THEIR OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES AND DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS GRANT AWARD/AGREEMENT. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE THE ATTORNEY GENERAL OF THE STATE OF TEXAS IF THECB AND/OR THE STATE OF TEXAS AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, OTHER CONTRACTORS, ASSIGNEES, AND DESIGNEES ARE A NAMED DEFENDANT IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE OF THE OFFICE OF THE ATTORNEY GENERAL. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

Applicant shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations (including the THECB rules relating to NIGP as codified in Title 19, Part 1 of the Texas Administrative Code) and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the Contract, including, if applicable, workers compensation laws, compensation statutes and regulations, and licensing laws and regulations. When requested to do so by the THECB, Applicant shall furnish the THECB with satisfactory proof of its compliance.

### **11.32 PROHIBITION ON USE OF FUNDS FOR LOBBYING**

Grantee represents and warrants that THECB's payments and Grantee's receipt of appropriated or other funds under this Grant Award/Agreement are not prohibited by Texas Government Code, Sections 556.005 or 556.008.

### **11.33 BUY TEXAS**

In accordance with Section 2155.4441 of the Texas Government Code, Grantee agrees that during the performance of a Grant Award/Agreement for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.

### **11.34 PROVISION OF SERVICES**

If applicable, upon any request by THECB for the provision of any Services for which THECB has made payment, Grantee shall immediately provide such Services to THECB. Any failure to provide such Services immediately shall be considered a material breach of this Grant Award/Agreement.

### **11.35 FORCE MAJEURE**

THECB may grant relief from performance of this Grant Award/Agreement if Grantee is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the Grantee. The burden of proof for the need of such relief shall rest upon the Grantee. Grantee shall notify THECB in writing if it believes that a force majeure may have occurred and THECB shall, in its sole discretion, determine if Force Majeure has occurred.

### **11.36 NOTICE**

Form of Notice. All notices and other communications in connection with this Grant Award/Agreement shall be in writing.

Method of Notice. All notices must be given (i) by personal delivery, (ii) by an express courier (with confirmation), (iii) mailed by registered or certified mail (return receipt requested), (iv) facsimile, or (v) electronic mail to the parties at the address specified in this Grant Award/Agreement, or to the address that a party has notified to be that party's address for the purposes of this section.

Receipt of Notice. A notice in accordance with this Grant Award/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.

The THECB shall not be responsible for notices that are captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by THECB or Grantee's anti-virus or other security software.

### **11.37 FALSE STATEMENTS AND BREACH OF REPRESENTATIONS**

Grantee represents and warrants that all statements and information prepared and submitted to the THECB are current, complete, true, and accurate. Submitting a false statement or material misrepresentations made during the performance of a Grant Award/Agreement is a material breach of contract and may void the Grant Award/Agreement.

### **11.38 SEVERABILITY AND WAIVER**

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

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 Grantee at any time to require strict performance of any contractual provision or obligation contained herein shall not constitute a waiver or diminish the rights of either party thereafter to demand strict compliance. Neither THECB’s review, approval, acceptance of, nor payment for any of the Services provided in this Grant Award/Agreement shall be construed to operate as a waiver of any rights under the Grant Award/Agreement, or of any cause of action arising out of the performance of the Services required by the Grant Award/Agreement.

**11.39 HUMAN TRAFFICKING PROHIBITION**

Under Section 2155.0061 of the Texas Government Code, Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking, the Grantee certifies that the individual or business entity named in this Grant Award/Agreement is not ineligible to receive the specified contract and acknowledges that this Grant Award/Agreement may be terminated and payment withheld if this certification is inaccurate.

**11.40 FOREIGN TERRORIST ORGANIZATIONS**

Grantee represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

**11.41 SYSTEM FOR AWARD MANAGEMENT**

THECB is federally mandated to adhere to the directions provided in the President’s Executive Order 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it. Grantee certifies that Grantee is in compliance with the State of Texas statutes and rules relating to procurement and that Grantee is not listed on the federal government’s terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

**11.42 NOTIFICATION OF CONTRACT**

(Only applies to Employees of a Texas state agency or any institution of higher education.)  
 THECB will send notification to the key personnel’s employer, if the personnel are otherwise employed outside of their contracted work with THECB.

**11.43 INSURANCE**

If applicable, grantee agrees to maintain at its expense insurance as required for the work being performed under this Grant Award/Agreement. Such insurance will protect THECB from all claims for bodily injury, death, or property damage which may arise out of or result from the performance of the Grantee’s obligations under the Agreement. Grantee represents and warrants that it will, within ten (10) business days of award of contract, provide THECB with current certificates of insurance or other proof acceptable to THECB of the following insurance coverage:

Grantee must maintain Workers' Compensation insurance coverage in accordance with statutory limits.

<b>Minimum Required Amounts of Insurance Coverage</b>	
<b>Type of Insurance</b>	<b>Each Occurrence/Aggregate</b>



Workers' Compensation	Statutory Limits
Employer's Liability Bodily Injury by Accident Bodily Injury by Disease Bodily Injury by Disease	\$1,000,000 Each Accident \$1,000,000 Each Employee \$1,000,000 Policy Limit
Commercial General Liability (occurrence based)	Bodily Injury and Property Damage \$1,000,000 Each Occurrence Limit \$2,000,000 Aggregate Limit \$5,000 Medical Expense each person \$2,000,000 Products/Completed Operations Aggregate Limit \$1,000,000 Personal Injury and Advertising Liability \$50,000 Damage to Premises Rented
Automobile Liability All Owned, Hired and Non-Owned Vehicles	\$500,000 Combined Single Limit (for each accident)
Umbrella/Excess Liability	\$1,000,000 Per Occurrence

Note: The required insurance coverage must be issued from a company or companies that:

- (1) Have both a Financial Strength Rating of "A" or better from A.M. Best Company, Inc.; and
- (2) Have a Financial Size Category Class of "VII" or better from A.M. Best Company, Inc.

All insurance policies for required coverage must be issued by companies authorized to do business under the laws of the State of Texas and in a form satisfactory to THECB. All required insurance contracts must:

- (1) Be written on a primary and non-contributory basis with any other insurance coverages Grantee currently has in place; and
- (2) Include a Waiver of Subrogation Clause.

All certificates of insurance for required coverage other than workers compensation and professional liability must name the State of Texas and its Officers, Directors, and Employees as additional insureds.

Grantee shall:

- (1) Provide written notice to THECB by e-mail at [Contracts@highered.texas.gov](mailto:Contracts@highered.texas.gov) and by U.S. First Class Mail to 1200 E. Anderson Lane, Austin, TX 78752, at least 30 calendar days prior to any cancellation, non-renewal, or material change of a required policy;
- (2) Ensure all insurance policies and certificates of insurance for required coverage are written to include all products, services, and locations related to Grantee's performance under the Grant Award/Agreement; and
- (3) Deliver to THECB by e-mail at [Contracts@highered.texas.gov](mailto:Contracts@highered.texas.gov) and by U.S. First Class Mail to 1200 E. Anderson Lane, Austin, TX 78752, all renewal policies at least ten calendar days prior to any expiration of a required policy. All renewal policies and corresponding certificates of insurance must meet all terms set forth in the Grant Award/Agreement.

Grantee must ensure that all provisions of the Grant Award/Agreement concerning liability, duty, and standard of care, together with the indemnification provision, are underwritten by contractual liability coverage sufficient to include such Grantee's obligations under the Grant Award/Agreement.

**11.44 KEY PERSONNEL**

Grantee shall assign only qualified personnel to this Grant Award/Agreement. Grantee, in its reasonable discretion, reserves the right to substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified to accomplish the required Services. Grantee shall provide to THECB prior written notice and obtain written approval from THECB prior to any change in key personnel involved in providing Services under this Grant Award/Agreement. Subcontractors providing services under the Grant Award/Agreement shall meet the same requirements and level of experience as required of Grantee (see "Assignment, Delegation or Subcontracting" provision for additional conditions regarding subcontracts). No subcontract under this Grant shall relieve Grantee of responsibility for ensuring the required Services are provided. THECB, in its sole discretion, may require Grantee to remove any employee, contractor, subcontractor, or vendor of the Grantee from providing work or services under the Grant Award/Agreement. Grantee shall replace such removed personnel expeditiously so that its services are performed on a timely basis.

Grantee represents and warrants that Grantee has not and Grantee's employees who will be participating in the funded project/program have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Grantee has fully advised THECB as to the facts and circumstances surrounding the conviction and has received THECB's prior written consent to proceed.

**11.45 DEBTS AND DELINQUENCIES TO THE STATE**

Grantee agrees that any payments due under the Grant Award/Agreement shall be applied towards any debt or delinquency that is owed to the State of Texas.

**11.46 DECEPTIVE TRADE PRACTICES; UNFAIR BUSINESS PRACTICES**

Grantee represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Texas Business and Commerce Code, Chapter 17, or allegations of any unfair business practice, in any administrative hearing or court suit, and further, that if it has been the subject of either or both such allegations, that Grantee has not been found to be liable for any such practices in such proceedings. Grantee certifies that it has no officers who have served as officers of other entities which have been the subject of allegations of Deceptive Trade Practices Act conduct, violations thereof, or allegations of any unfair business practices, in an administrative hearing or court suit and further, that if such officer(s) has been the subject of either or both such allegations, that such officers have not been found to be liable for any such practices in such proceedings.

**11.47 SUSPENSION AND DEBARMENT**

Grantee certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

**11.48 EXCLUDED PARTIES**

Grantee certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

#### **11.49 E-VERIFY**

U.S. Department of Homeland Security's E-Verify System

By entering into this Grant Award/Agreement, the Grantee certifies and ensures that it utilizes and will continue to utilize, for the term of this Agreement, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

All persons employed to perform duties within Texas, during the term of the Grant Award/Agreement; and

All persons (including subcontractors) assigned by the Grantee to perform work pursuant to the Grant Award/Agreement, within the United States of America.

#### **11.50 DRUG FREE WORK PLACE**

The Grantee shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Grantee shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

#### **11.51 NO COMMISSIONS**

THECB shall not pay any commissions to Grantee under this Grant Award/Agreement.

#### **11.52 APPLICABLE TAXES**

This Grant Award/Agreement shall not be construed so as to supersede the laws of the United States or the State of Texas that accord the State of Texas, THECB, and all departments, agencies, and instrumentalities of the State of Texas exemptions from payment(s) of all taxes of whatever kind. More specifically, to the extent permitted by applicable law, THECB shall not directly or indirectly be liable for taxes of any kind. Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from this Grant Award/Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. To the extent permitted by applicable law, THECB shall provide all applicable tax exemption certificates upon the Grantee's request.

#### **11.53 ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS**

Effective September 1, 2006, state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 Texas Administrative Code (TAC) Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

Grantee shall provide Department of Information Resources (DIR) with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Grantees not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the

"Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

#### **11.54 SMOKING POLICY**

THECB has a policy of being a smoke-free agency. The policy reflects THECB's commitment to providing a healthy environment for all THECB employees and visitors. This policy prohibits smoking within any state building. The Grantee, by acceptance of this Grant Award/Agreement, agrees to abide by this policy when on the property of THECB.

#### **11.55 SUBSTITUTIONS**

Substitutions are not permitted without the written approval of THECB.

#### **11.56 CONTRACTING INFORMATION RESPONSIBILITIES**

(APPLICABLE FOR CONTRACTS \$1 MILLION AND ABOVE)

Grantee represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552 of the Government Code, may apply to the Grant Award/Agreement and the Grantee agrees that the Grant Award/Agreement can be terminated if the Grantee knowingly or intentionally fails to comply with a requirement of that subchapter.

#### **11.57 CYBERSECURITY TRAINING**

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

#### **11.58 DISASTER RECOVERY PLAN**

Upon request of THECB, Grantee shall provide the descriptions of its business continuity and disaster recovery plans.

#### **11.59 ENTIRE AGREEMENT AND ORDER OF PRECEDENCE**

This Grant Award/Agreement consists of the following documents: the final executed Grant Award/Agreement (including its Exhibits and any Amendments), THECB's Request for Applications (RFA), and the Grantee's response to the RFA.

In the event of conflicts, contradictions, or inconsistencies between or among these documents, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of precedence:

(1) the original Request for Application ("RFA") including any addenda issued, (2) addenda to the Grantee's Application (if any), and (3) Grantee's Application. This Grant Award/Agreement (including its Exhibits and any Amendments) contains the final, complete and exclusive understanding of the Parties, and supersedes all prior contemporaneous, oral or written understandings, representations, and negotiations between Parties relating to the subject matter of this Grant Award/Agreement. The Parties further agree that this Grant Award/Agreement may not in any way be explained or supplemented by a prior or existing course of dealings between the Parties, by usage of trade or custom, or by any prior performance between the Parties pursuant to this Grant Award/Agreement or otherwise.

If language contained in a particular Section of the RFA is found to be in conflict with language in another Section, the most stringent requirement(s) shall prevail.

## APPENDIX A: RFA DEFINITIONS

The following definitions shall apply:

1. **Applicant** – An initial RN licensure program, per eligibility defined in Section 3 of this RFA, submitting an Application in accordance with the terms and conditions of this RFA.
2. **Application** – The final document, including all pertinent Attachments specified in Section 8.8 of the RFA, submitted by an Applicant to the THECB in response to and in accordance with the terms and conditions of this RFA.
3. **Awarded Applicant** – The successful recipient ultimately awarded a Grant by the THECB and responsible for performing all activities required to fully comply with Grant performance requirements and all Grant terms and conditions.
4. **FERPA** – The Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g, and the federal regulations, 34 CFR Part 99, which is a federal law regarding the privacy of student records and the obligations of the institution, primarily in the areas of release of the records and the access provided to these records. Any educational agency or institution that receives funds under any program administered by the U.S. Secretary of Education is bound by FERPA requirements. Institutions that fail to comply with FERPA may have funds administered by the Secretary of Education withheld.
5. **NIGP** – Nursing Innovation Grant Program.
6. **NOGA** – Notice of Grant Award, a term applied to the official document used by the THECB to notify grantees that funding has been approved. NOGAs include such information as award amount, project and budget periods, and specific award terms and conditions. The NOGA creates a legally binding agreement between the parties and incorporates the RFA and the Application into the agreement. Throughout this RFA the terms “NOGA,” “Contract,” and “Grant” are used interchangeably.
7. **State Fiscal Year** – The period of time beginning September 1 and ending on the following August 31, both dates inclusive.
8. **State of Texas Business Days** – Monday through Friday, 8:00 a.m. to 5:00 p.m. Central Time, except for scheduled state of Texas and national holidays.
9. **THECB** – The Texas Higher Education Coordinating Board, an agency of the state of Texas.

## **APPENDIX B: CALENDAR OF EVENTS**

August 26, 2020	Inquiry Deadline
September 1, 2020	Application Deadline
Mid-November 2020	THECB Anticipates Announcing Grant Awards
Upon NOGA Execution	Grant Period Begins
November 18, 2020	Awarded Applicants Have First Virtual Meeting with THECB
June 15, 2021	First Expenditure Report Is Due to THECB
October 26, 2021	Awarded Applicants Have Second Virtual Meeting with THECB
November 30, 2021	Delivery Deadline for Equipment, including Software, with a Unit Price Higher Than \$5,000
December 14, 2021	Second Expenditure Report Is Due to THECB
December 31, 2021	Completion Deadline for Renovation Work
January 6, 2022	Interim Project Report Is Due to THECB
June 15, 2022	Third Expenditure Report Is Due to THECB
June 30, 2022	Deadline to Submit Grant Extension Request
November 30, 2022	Grant Period Ends—All Grant Expenses Must Be Incurred
January 18, 2023	Final Project Report Is Due to THECB
February 22, 2023	Final Expenditure Report Is Due to THECB

## **APPENDIX C: APPLICATION EVALUATION FORM**

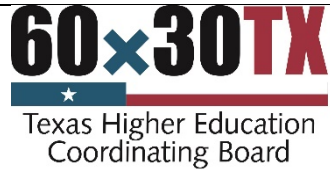
(Not applicable under this RFA. Refer to Section 7 for criteria of award selection.)

## APPENDIX D: CHECKLIST OF REQUIRED FORMS AND ATTACHMENTS

Required Information (RFA Section)	Application Form / Attachment
Certification (8.1) Project Narrative (8.2) Project Work Plan/Timeline (8.3) Project Evaluation (8.4)	Application Form (Available on <a href="http://www.highered.texas.gov/NIGP">www.highered.texas.gov/NIGP</a> )
Optional letters of leadership commitment (8.8)	Attachment
Letter requesting exceptions, if applicable (8.8)	Attachment



**APPENDIX E: SAMPLE NOTICE OF GRANT AWARD**



THECB Award Number: **{XXXX}**  
Appropriation Year (AY): **2021**

**Notice of State Grant Award  
to  
{contracted\_party}**

Grantee Name and Address:  <b>{contracted_party}</b> <b>{contractedPartyAddress}</b> <b>{contractedPartyCity}, {contractedPartyState}</b> <b>{contractedPartyZip}</b>	Grant Title: <b>Nursing Innovation Grant Program</b>
	Amount of Award: \$ <b>{total_\$}</b>
	Division: <b>070 Academic Quality and Workforce</b>
	Term of Grant: <b>Upon execution - November 30, 2022</b> All allowable expenditures must be incurred by November 30, 2022.
	Payment Method: <ul style="list-style-type: none"> <li>To enable expeditious project implementation by Grantee, a payment in the amount of 25% of the award will be made after contract execution, start of Grant Period, THECB approval of Final Award Budget, and, if applicable, THECB receipt of Disclosure of Interested Parties.</li> <li>Remaining awarded funding (75% of award) will be paid on a cost-reimbursement basis.</li> </ul>

**Authority: Texas Education Code, Section 63.202 (f) and (g)**

The Texas Higher Education Coordinating Board’s (“THECB”) and the Grantee’s (collectively, referred to as “the parties”) execution of this Notice of Grant Award creates a legally binding agreement between the parties. The Program requirements (e.g., objectives, scope, budget, methodology) as stated in (1) the original Request for Application (“RFA”) including any addenda issued, (2) addenda to the Grantee’s Application (if any), and (3) Grantee’s Application are incorporated into and made a part of this Notice of Grant Award for all purposes, supersede any prior or contemporaneous understandings between the parties pertaining to the subject matter herein whether oral or written, and collectively constitute the entire agreement between the parties. In the event of a conflict in the language contained in the incorporated documents, conflicts shall be resolved by reference to the language contained in the documents in the order listed above.

Any changes in the approved Grant must follow THECB’s amendment process as defined in the RFA. If not a strictly reimbursable award, any funds received by Grantee and not expended prior to the end of the grant term indicated above shall be returned to THECB within ninety (90) calendar days unless otherwise agreed by THECB and Grantee.

<b>Approving THECB Official:</b>	<b>Approving Grantee Official:</b>
<b>{signContact}</b> <b>{signContacttitle}</b>	<b>{signed_by}</b> <b>{signed_bytitle}</b>
<b>Date:</b>	<b>Date:</b>