

# Request for Applications

Texas Innovative Adult Career Education Program

2025 - 2026

RFA No.: 01430

NOTICE OF INTENT DEADLINE: 5:00 p.m. CT, December 6, 2024

INQUIRY DEADLINE: 5:00 p.m. CT, December 11, 2024

APPLICATION DEADLINE: 5:00 p.m. CT, December 16, 2024

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## 1. OVERVIEW OF FUNDING OPPORTUNITY

### 1.1 PROGRAM TITLE

This program is titled Texas Innovative Adult Career Education Program (ACE Program or ACE).

### 1.2 SYNOPSIS OF PROGRAM

This Request for Application (RFA) is to provide grant funding to eligible Applicants that seek to develop, support, or expand workforce intermediary and job training programs for veterans and low-income students to enter careers in high-demand and/or higher earning occupations.

### 1.3 PROGRAM AUTHORITY

The ACE Program is authorized pursuant to Texas Education Code, Chapter 136, §§ 136.001 and 136.005-136.007.

The Texas Higher Education Coordinating Board (THECB) has adopted rules in the Texas Administrative Code, Title 19, Part 1, Chapter 10, Subchapter RR, §§10.870-10.878.

ACE Program grants are funded through State appropriations, GAA 88th Legislature, HB1.

### 1.4 POINT OF CONTACT

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

Waylon Metoyer, Director  
Student Success  
Texas Higher Education Coordinating Board  
Email: StudentSuccess@highered.texas.gov  
Phone: 512-427-6216

### 1.5 INQUIRIES

All inquiries shall be directed to the Point of Contact. Applicants and prospective Applicants must not discuss an Application, including a Notice of Intent to Apply, 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. Applicant may only rely on written responses from THECB.

Any information deemed by 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 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 the Texas Innovative Adult Career Education Program.

## 2. AWARD SUMMARY

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

Contingent on the appropriation available, THECB expects to award approximately six grants (Grant Award) of up to \$500,000.00 per Grant Award for the Grant Period described in Section 2.2, below. In the event of returned grant program funds, THECB may increase the number of awards and/or award amounts based on the amount of available funds.

### 2.2 GRANT PERIOD

The Grant Period will begin upon the execution of the Notice of Grant Award (NOGA) or on January 15, 2025, whichever is later, and will conclude on August 31, 2026, for an approximate 18-month Grant Period. Awarded Applicants will have obligations that extend beyond the Grant Period.

### 2.3 SELECTION FOR FUNDING

The funding available to support ACE Program Grants in Fiscal Year (FY) 2025 will be awarded to Applicants selected on a competitive basis. 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. A Calendar of Events for the entire Grant Period is in Appendix B.

<u>Dates</u>	<u>Application Steps</u>
December 6, 2024	Notice of Intent Deadline
December 11, 2024	Inquiry Deadline
December 16, 2024	Application Deadline
January 6, 2025	THECB Announcement of Grant Awards

## 3. ELIGIBILITY REQUIREMENTS

### 3.1 ELIGIBLE APPLICANT

Eligible applicants are nonprofit organizations that serve as workforce intermediaries and job training organizations.

- A nonprofit organization is defined as an organization exempt from federal income taxation under §501(a), Internal Revenue Code of 1986, as an organization described by §501(c)(3) of that Code.
- A workforce intermediary and job training organization is an organization that engages in comprehensive long-term job training in partnership with a

public junior college, public state college, or public technical institute and provides labor market intermediary services to participating students.

In addition, an eligible entity must:

- 1) Provide or will provide to eligible low-income students or veterans, job training and a continuum of evidence-based services designed to move a program participant from application to employment, including, but not limited to, outreach, assessment, case management, support services and career placement;
- 2) Be governed by a board or other governing structure that includes recognized leaders of broad-based community organizations and executive-level or managerial-level members of the local business community;
- 3) Have executed partnership agreements with one or more public junior colleges, public state colleges, or public technical institutes; and
- 4) Be able to provide matching funds of 50% of the grant award, which may be obtained from any source available to the organization, including in-kind contributions, community or foundation grants, individual contributions, and local governmental agency operating funds.

See Appendix A, Definitions, for further description of the entities listed above.

### 3.2 ELIGIBLE PROJECTS

The purpose of the Texas Innovative Adult Career Education Grant Program is to support eligible Applicants that intend to prepare veterans or low-income students to enter careers in high demand and significantly higher-earning occupations.

Applications submitted under this RFA must provide a plan for development, support, or expansion of projects related to job training and evidence-based services to assist students with applying for jobs through employment. Applications submitted under this RFA shall focus on projects assisting low-income students or veterans who meet the following requirements:

Low-income students must be:

- A US Citizen or Permanent Resident
- An Adult (18 years & older)
- A Texas resident
- A High school graduate, with a diploma or obtained a GED
- At or below 200% of 2024 Federal Poverty Income Guidelines threshold
- Committed to completing the program

Veterans must be:

- A US Citizen or Permanent Resident
- An Adult (18 years & older)
- A Texas resident
- A High school graduate, with a diploma or obtained a GED
- Committed to completing the program

Applicants must describe a systematic process for verifying these requirements. Proposed programs must have the ability to measure, track, and report particular metrics aligned with the priority outcomes to THECB.

Applicants must agree to collaborate with a Research/Evaluation Vendor to actively participate and provide feedback during the program's evaluation.

If requested, applicants must submit or collaborate with partnering institution(s) to submit program information to the TX Student Success Program Inventory (SSPI), which is a repository for innovative programs, if not already included.

### 3.3 PRIORITY PROJECTS

Applications that meet the Priority Selection 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. Applicants that are individually recognized may apply as an individual Applicant. If an Applicant has multiple locations, each location may be considered an Eligible Applicant, if the organization can prove it is recognized as a self-standing entity. If the multiple locations encompass' one entity umbrella not individually recognized, only one submission would be allowed.

### 3.5 NOTICE OF INTENT TO APPLY

A Notice of Intent to Apply (NOI) is required.

Each potential Applicant shall submit a NOI to THECB according to the deadline and submission instructions established in this section.

Each Applicant must submit electronically to THECB a completed NOI on or before 5:00 PM CT December 6, 2024.

The Applicant will submit a NOI form using the form available on the ACE Grant website: [Texas Innovative Adult Career Education Grant Program \(ACE\) - Texas Higher Education Coordinating Board](#)

Only NOI submitted on THECB's Notice of Intent to Apply Form will be accepted.

Applicant is solely responsible for ensuring that Applicant's complete electronic NOI is sent to, and received by, THECB on or before the established deadline. Applicant should retain proof of NOI timely submission.

THECB will email confirm receipt of the NOI to Applicant within three (3) state business days of receipt by THECB. Applicant must not consider a NOI received by THECB until Applicant has received an email confirmation from THECB.

If Applicant has not received an email confirmation from THECB within three (3) state business days of submission, contact the Point of Contact at [studentsuccess@highered.texas.gov](mailto:studentsuccess@highered.texas.gov). Applicant may be requested to provide proof of timely submission.

THECB takes no responsibility for electronic NOI forms that are captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by any THECB or Applicant antivirus or other security software.

THECB will respond to all Applicants who submitted a NOI to inform them if they may proceed to submit an Application.

If an Applicant is not selected to submit an Application, THECB staff will provide Applicant with information explaining the decision.

## 4. APPLICATION SUBMISSION

### 4.1 APPLICATION DEADLINE: 5:00 p.m. CT, December 16, 2024

To qualify for funding consideration, an eligible applicant must submit an application to THECB.

Each application must be:

- completed according to the guidelines in Section 8;
- submitted by an authorized agent of the Applicant entity;
- submitted via ACE Grant Application Submission Form ([THECB Adult Career Education \(ACE\) Grant Program Application Submission Form](#)).

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*Late or incomplete Applications will not be accepted. Applications submitted via email rather than through the ACE Grant Application Submission Form 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 agreement if there is one. The issuance of this RFA does not guarantee that an agreement will ever be awarded. THECB reserves the right to amend the terms and provisions of the RFA, negotiate with Applicant, add, delete, or modify the agreement and/or the terms of Application submitted, extend the deadline for submission of Application, or withdraw the RFA entirely for any reason solely at THECB's discretion. An individual Application may be rejected if it fails to meet any requirement of this RFA. 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

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.

THECB will confirm Application receipt via email within **three (3)** state business days of receipt by THECB. If an Applicant does not receive such confirmation from

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.

### 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 THECB prior to the deadlines outlined in Section 4. 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 2013, House Bill 437 passed by the 83rd Texas Legislature establishing the ACE Program. Austin Community College was designated as the grant administrator. House Bill 8 of the 88th Legislature transferred administration of ACE to the THECB. THECB has since adopted rules in the Texas Administrative Code, Title 19, Part 1, Chapter 10, [Subchapter RR, §§ 10.870–10.878](#). The ACE Program is funded by state appropriations through [General Appropriations Act, HB 1, Rider 65, Strategy, C.1.1](#). The administration of the grant program changed, but the purpose of the ACE Program remains the same. The ACE program provides grants to eligible nonprofit workforce intermediaries and job training organizations that aim to develop, support, or expand programs to prepare low-income students or veterans for careers in high-demand, higher-paying occupations.

## 6. PROJECT REQUIREMENTS

### 6.1 FUNDING RESTRICTION

Texas Innovative Adult Career Education Program funds shall not be substituted for any other funds available to the Applicant or any program partners. Awarded funds shall be spent only on expenses that support the Texas Innovative Adult Career Education Program as documented in the Applicant’s Budget and Timeline. All funds must be expended by August 31, 2026.

## 6.2 ALLOWABLE COSTS AND PROHIBITED COSTS

### 6.2.1 Allowable Cost Categories.

Reasonable costs in the budget categories below are allowable:

**Personnel Compensation** - Compensation may include a portion of salaries, wages, and benefits of personnel, including, but not limited to the following positions: *Example: project director, coordinator, and administrative support.* List title and percentage of time for each position.

**Travel** - Travel expenses are allowed for personnel conducting activities directly related to the grant project. These costs must be specifically identified and justified in the Application Budget, the Final Award Budget, or a budget subsequently approved by THECB via a Budget Change Request. Travel expenses must be consistent with state of Texas guidelines relating to type (transportation, lodging, meals), funding basis (actual cost, per diem, mileage), and reasonableness.

**Equipment and Supplies** - Funds expended shall not exceed fifty percent (50%) of total project budget. Rental or lease of facilities or equipment is allowable with prior approval.

**Pre-Award Costs** - Potential applicants under this RFA who expend funds before the Grant Period understand that those pre-award costs expended may not be eligible for reimbursement and expenditure of pre-award costs is not a guarantee of an ACE Program Grant Award. Pre-award costs may be reimbursable only if the cost is necessary for efficient and timely performance of the scope of work under the ACE Program Grant; the costs are allowable if they were incurred after the date of the state award; accompanied by a detailed invoice or written preapproval from the Point of Contact; and incurred after December 18, 2024.

**Other Direct Costs** - Approval of expenditures for Other Direct Costs is at the discretion of THECB. These costs must be specifically identified and justified in the Application budget and the negotiated award budget. Examples of “other direct costs” include tuition, books, lab materials, physical exams, uniforms, student housing, utilities, transportation, childcare, consultant services (copy of contract or MOU is required), publications, publication costs, organizational membership in professional organizations or societies if it can be shown that such membership is necessary to accomplish the objectives of the program, training and testing.

### 6.2.2 Prohibited Costs.

The following types of costs shall not be included in the proposed budget or be paid with Texas Innovative Adult Career Education Program Grant funds:

- Costs for ongoing support of Texas Innovative Adult Career Education Program beyond the grant period;

- Salaries or other stipends that are calculated at a higher pay rate than that which an individual normally receives in a position (or in a similar position);
- Staff bonuses;
- Equipment and Supplies costs that in total exceed fifty percent (50%) of total project budget;
- Bad debts (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable;
- Warranties, protection plans, and service contracts beyond the standard coverage period that is included in the purchase price;
- Food and beverages;
- Alcoholic beverages;
- Entertainment;
- General purpose equipment (e.g. office furniture or general use personal computer);
- Fund Raising;
- Grocery;
- Interest;
- Travel not consistent with state of Texas guidelines relating to type (transportation, lodging, meals), funding basis (as actual cost, per diem, mileage), and reasonableness;
- Foreign travel;
- Political, lobby, or religious activities such as sectarian worship, instruction, or proselytization;
- Indirect costs (are assumed to be included in normal programmatic costs and will not be provided separately); and
- Real Property, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.

### 6.2.3 Budget Changes

Submission of a Budget Change Request and THECB's prior written approval is required to allow changes to the budget categories, expenditures, or charge of the following costs to the grant:

- Other Direct Costs not specifically identified and justified in the Application Budget or the Final Award Budget;
- Budget transfers across the allowable budget categories listed in Subsection 6.2.1 that exceed (25%) of the total Grant Award during the Grant Period;

- Budget Change Request approval must be received in writing from a THECB Grant Manager for the Texas Innovative Adult Career Education Program.

## 7. AWARD SELECTION CRITERIA

Each Applicant shall satisfy Section 3. Eligibility Requirements to be considered during the award selection process. Applicants shall be selected for funding on a competitive basis.

This RFA is designed to issue Grant Awards that provide the best overall value to the state within the guidelines of the Texas Innovative Adult Career Education Program. Selection criteria shall be based on eligibility requirements, funding priorities (if applicable), and project quality, as determined by reviewer criteria, and other factors, including past performance on THECB grants.

### 7.1 APPLICATION SCREENING

THECB staff shall conduct an initial screening of Applications to determine if they adhere to the Grant program requirements contained in the RFA. An Application must meet RFA requirements and be submitted with proper authorization on or before the day specified by 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 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 [May Omit as a Requirement. Do Not Remove from RFA.]

An eligible Applicant's application will be given fifteen (15) priority "bonus" points in the selection process based on the priority category. **Funding Priority One** – Applicant that received a Texas Innovative Adult Career Education Program grant in the past and successfully executed it, as verified by THECB staff.

### 7.3 GENERAL CRITERIA FOR AWARD SELECTION

THECB staff will review the Applications based on the program elements and the review criteria presented in this section, which are designed to enable the reviewers to assess the quality of a proposed project and determine the likelihood of its success. An application may earn a maximum of 100 points. Applications will be ranked from highest to lowest based on all scores.

#### 1. Program Overview and Impact (15 points)

The program overview provides identification of the target population, number to be served and a clear summary of the submitted program and relevant

information that describes how the program is aligned with the purpose and goals of the ACE program (student entry into careers requiring credentials that result in higher earnings for low-income and/or veterans).

Overall Impact: How many students do you anticipate or will be serving during this grant period?

Baseline (last year FY24): [# of students]

Current Year (FY 25): [# of students]

Upcoming Year (FY 26): [# of students]

### 2. Rationale for Funding (10 points each)

- a. Provide an overview of the Applicant's rationale to implement the proposed program. Include information and data on the program's target population, current outcomes, and other relevant information to make a compelling case for the Applicant to receive grant funds.
- b. Provide a brief narrative describing how the program will impact 1) student persistence and 2) certificate or degree completion rates at the partnering public junior college(s), public state college(s), or public technical institute(s).
- c. Describe the plan to meet the matching funds criteria set forth in the RFA (50% funding match is required). Matching funds may be obtained from any source available to the organization including in-kind contributions, administrative costs, community or foundation grants, cash donations, individual contributions or donations, and local governmental agency operating funds. Applicants should include with their application a letter of commitment from match donors, certifying that they will donate materials and/or services and their dollar value.

### 3. SMART Goals, Background Data, and Main Activities (30 points)

#### A. Smart Goals (10 points) and Background Data (10 points)

Proposed programs or interventions must have the ability to measure, track, and report specific metrics. Applicant will identify four (4) goals to measure the program's success, including background information and data related to each goal. Applicants must reference the THECB [Accountability System](#) to identify the participating institution success rate which must meet or exceed the identified institution's rates published in the year according to each of the programmatic success rates listed below.

Goal: [insert #] of students that will complete developmental education program at the partnering institution by the end of the funding period.

Background:

What is your 2020 rate of success for program participants in completing developmental education among participating public

junior college, public state college, or public technical institute students?

Percentage Rates for Math, Reading, Writing

Do these meet or exceed the above-average rate among participating institution(s) based on the latest 2020 cohort data according to the THECB Accountability System? Math [Yes/No], Reading [Yes/No], Writing [Yes/No]

Provide participating institution average rates based on THECB Accountability System? Math [insert %], Reading [insert %], Writing [insert %]

How do you plan to achieve above-average rates or continue achieving these measures of success among program participants? [limit 100 words]

Goal: [insert #] of students that will persist at the partnering institution by the end of the funding period.

Background:

What is your 2022 rate of success for persistence rates among participating public junior college, public state college, or public technical institute students?

Percentage Rate

Does this meet or exceed the above-average rate among participating institution(s) based on the latest 1-year 2022 cohort data according to the THECB Accountability System?

Provide participating institution average rate based on THECB Accountability System?

How do you plan to achieve above-average rates or continue achieving these measures of success among program participants? [limit 100 words]

Goal: [insert #] of students completing with a certificate or degree at the partnering institution.

Background:

What is your 2020 rate of success for certificate or degree completion rates by participating students within a three-year period compared to demographically comparable public junior college, public state college, and public technical institute students:

Percentage Rate

Does this meet or exceed the above-average rate among participating institution(s) based on the latest 2020 cohort data according to the THECB Accountability System?

Provide participating institution average rate based on THECB Accountability System?

How do you plan to achieve above-average rates or continue achieving these measures of success among program participants? [limit 100 words]

Goal: [insert #] of students that will enter careers requiring credentials that result in higher earnings.

Background:

What is your 2022 rate of entry into careers/workforce with significantly higher earnings for program participants than previously achieved?

Number, Percentage Rate

Does this meet or exceed the working within one year after award above-average rate among participating institution(s) based on the 2022 data according to the THECB Accountability System? [Yes/No]

Provide participating institution average rate based on the THECB Accountability System?

How do you plan to achieve higher rates of entry to the workforce or continue achieving these measures of success among program participants? [insert text, limit words].

If available, what is the average rate of higher earnings for 2022 program participants?

B. Main Activities (10 points)

Outline the plan for the development, support, or expansion of evidence-based services to low-income students or veterans to successfully gain employment in high demand and higher-earning occupations with a timeline. Services should include:

- (1) Outreach activities that inform students of the programming available;
- (2) Assessment activities that create a pathway based on the student's interest and assessing the readiness and performance based on test scores, grade point averages, or any other instruments adopted/approved by the Board;
- (3) Case management activities;
- (4) Support services provided to students to aid in student completion of job attainment; and
- (5) Developmental education.

In addition, if the applicant will provide services to veterans, the veterans will have rapid attainment of civilian workforce credentials.

#### 4. Budget (10 points)

The budget for the project is reasonable and cost effective; the purpose and explanation for the line items provides a strong connection to the proposed work. See Subsection 6.2 for more detailed guidance on the budget.

#### 5. Overall Assessment (10 points)

Application is professionally written, comprehensive, and makes a persuasive case that funding will have a significant impact on furthering the organization's work to achieve stated goals. There is evidence and research to indicate the likelihood of program success.

Reviewers will use the General Selection Criteria to score applications. The Application Evaluation Form is in Appendix D.

### 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 THECB Rule 1.16.

## 8. APPLICATION FORMAT AND CONTENT

An Application must include the elements described in Subsections 8.1 through 8.8 of this RFA. The Application Forms are available on THECB's website: [Texas Innovative Adult Career Education Grant Program \(ACE\) - Texas Higher Education Coordinating Board](#)

In completing the Application, applicants should provide sufficient information to allow reviewers to clearly evaluate the Application based on the selection criteria described in Section 7.2 and 7.3 of this RFA.

### 8.1 CERTIFICATION OF APPLICATION INFORMATION AND LEADERSHIP COMMITMENT (FORM 1)

The Certification Page provides a signature by an authorized organizational 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 organization.

### 8.2 GRANT APPLICATION (FORM 2)

Applicants must submit responses on Grant Application and address each item. Incomplete submissions will not be reviewed.

### 8.3 BUDGET (FORM 3)

Applicant must complete the Budget. A separate budget must be submitted for each partner that would participate in Texas Innovative Adult Career Education program funding. The budget must include:

- A reasonable estimate of funds expenditures over the Grant Period;
- Amounts and justification of allowable funds expenditures by category and year (Refer to Section 6.2); and
- 50% matching funds by source and amount.

THECB shall negotiate a Final Award Budget with each Awarded Applicant.

### 8.4 FINANCIAL VIABILITY

Provide a financial statement for the Applicant for the previous two fiscal years. This may be in the form of Applicant's most recent audited financial reports. Public institutions are exempt from this requirement.

### 8.5 ATTACHMENTS

Required attachments may include 1) documentation of applicant's 501(c)(3) status; 2) documentation of partnership agreement with institution; and 3) if wanting priority points evidence of successful past award.

## 9. DISTRIBUTION OF AWARD FUNDS

### 9.1 ISSUANCE OF GRANT AWARD

Following all negotiations between THECB and Applicants and the announcement of awards, the Awarded Applicants will receive an electronic copy of THECB's ACE Notice of Grant Award (NOGA, Appendix E), which will take effect on the day the NOGA is fully executed, or on January 15, 2025, whichever is later. Throughout this RFA, the terms "NOGA," "Award," and "Grant" are used interchangeably.

The NOGA must be executed by an individual authorized to enter into a grant agreement on behalf of the Applicant. Upon execution of a NOGA 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 Awarded Applicant are referred to singularly as "Party" and collectively as "Parties."

### 9.2 "DISCLOSURE OF INTERESTED PARTIES" REQUIREMENT

If applicable, THECB may not execute a NOGA with a not-for-profit entity until the entity has presented a certificate disclosing interested parties in compliance with Section 11.24 of this RFA.

### 9.3 FUNDS DISBURSEMENT AND PAYMENT TERMS

Subsequent to full NOGA execution and THECB receipt of the Disclosure of Interested Parties as applicable, Grant Award funds will be disbursed according to the following provisions of this RFA.

Texas Innovative Adult Career Education Program Grants are funded through state general appropriations. Awarded Applicant shall receive payments through the

Texas Comptroller of Public Accounts. THECB shall not disburse awarded funds until the NOGA has been fully executed and, if applicable, the Disclosure of Interested Parties has been received and acknowledged by THECB, as described in Section 9.2 OR until submitted expenditure reports have been approved by THECB for payment. Awarded Applicant will be reimbursed for costs incurred based on their submitted and approved financial reports.

After full NOGA execution and THECB receipt of the Disclosure of Interested Parties, as applicable, 50% of awarded funds are payable to enable Grantee to fully perform the Services described in its Application. The advancement of funds is necessary for performance under the grant program.

At THECB's sole discretion, the second portion (50%) of grant funding is contingent upon the Awarded Applicant using grant funds appropriately, meeting project benchmarks, and producing expected outcomes in the first half of the Grant Period.

Awarded Applicant must submit the Interim Project Progress Report and Interim Expenditure Report by the deadlines established in Section 10 Monitoring and Reporting Requirements. The second portion of 50% percent of the award will be payable after approval and acceptance of these reports by THECB staff.

All grant-related expenses must be incurred on or prior to August 31, 2026. Any grant funds received by Grantee and not expended prior to the end of the Grant Period shall be returned to THECB by October 30, 2026, unless otherwise agreed by THECB and Grantee.

Awarded Applicant shall not expend or incur against awarded funds until the NOGA has been fully executed.

### **9.4 LAST DAY OF EXPENDITURES**

All allowable grant-related expenses must be incurred on or before August 31, 2026. Expenses incurred after this date cannot be charged to the Texas Innovative Adult Career Education Program.

### **9.5 RETURN OF UNEXPENDED FUNDS**

Awarded Applicants shall return any unexpended funds to THECB by October 30, 2026, unless otherwise agreed in writing by THECB and Grantee.

Awarded Applicant shall return any remaining funds promptly if Award is terminated.

### **9.6 GRANT EXTENSION**

Extension of the Grant Period for the project may be granted at the sole discretion of THECB. An Awarded Applicant may be eligible to request a no-cost grant extension to fully complete grant project activities and goals. Awarded Applicant must request an extension by email to the point of contact for Program within 90 days before the contract ends. Extensions are subject to the availability of appropriated funds and to the eligibility requirements.

If additional funding is available to support the Texas Innovative Adult Career Education Program, THECB's Point of Contact will notify eligible Grantees. Additional documentation and/or work may be required.

## 10. MONITORING AND REPORTING REQUIREMENTS

### 10.1 MONITORING

THECB staff shall monitor and oversee Texas Innovative Adult Career Education Program 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 Applicants shall be required to complete the Program Narrative and Expenditure reports listed in Sections 10.2 and 10.3 for a program funded as a result of this RFA. THECB will provide a template and instructions for electronic submission for required reports.

If Awarded Applicant does not submit the required reports detailed in Sections 10.2 and 10.3 by the established deadline, and the Awarded Applicant has not been granted a submission extension, THECB reserves the right to require that awarded funds be returned. If a required report is not accepted by THECB, make necessary edits to the report and resubmit. Delinquent and unaccepted reports may affect Awarded Applicant's eligibility to apply for future THECB grant awards.

### 10.2 PROJECT/PROGRAM NARRATIVE REPORTS

Awarded Applicant shall submit two (2) written project/program reports as specified by THECB on or before the following dates:

1. Interim Project Report due September 30, 2025, and
2. Final Project Report due October 30, 2026.

Project/Program Reports will generally include, but may not be limited to:

- (1) Status of the grant project activities;
- (2) Student enrollment and demographic data as applicable;
- (3) Job placement and salary data as applicable; and
- (4) Any other information required by the RFA.
  - (a) Narrative status report on the development of the Texas Innovative Adult Career Education program.
  - (b) Information and data on participants supported by the program, as requested by THECB and the Adult Career Education (ACE) Program Grant manager. May be asked to provide organizational statistical data-data that will be used in reporting to the legislature and others to show average rates of participants in the ACE Grant program. This organizational statistical data will be reported at the aggregate level and could include demographic data on participants, services provided,

number/percentage receiving services, persistence rates, completion rates, job placements, outcomes, etc.

### 10.3 FINANCIAL REPORTS

Awarded Applicant shall submit financial expenditure reports to the Point of Contact due on or before the following dates:

1. Interim Expenditure Report due September 30, 2025; and
2. Final Financial Report due October 30, 2026.

Project/Program Reports will generally include, but may not be limited to, budget expenditures by budget category.

The grantee must demonstrate through financial reporting that the grantee has complied with the matching funds requirement before THECB will issue the next periodic installment. The matching funds may be obtained from any source available to the organization including in-kind contributions, administrative costs, community or foundation grants, individual contributions or donations, and local governmental agency operating funds.

### 10.4 PROGRAM EVALUATION AND INVENTORY REQUIREMENTS

#### 10.4.1 Program Evaluation

THECB plans to conduct an evaluation to assess the statewide effectiveness of the program/project. Awarded Applicants will collaborate with a Research/Evaluation Vendor to actively participate and provide feedback during the program's evaluation. This includes supplying any requested information and data to THECB or its designated representative.

Project evaluation is incorporated into the Application. Awarded Applicants must document status of expected outcomes during required project reporting. After the end of the funding period, Awarded Applicants must report on the final outcome of each identified project objective. A virtual convening of awarded applicants will be held to ensure compliance with reporting and evaluation timelines and gather feedback.

#### 10.4.2 Program Inventory and Self-evaluation

Awarded applicants may be required to submit the funded program for entry into the TX SSPI. As part of this process, applicants must agree to participate in the following:

Self-evaluation of the funded program using the Student Success Program's Potential for Significant Impact (PFSI) Rubric and corresponding Companion Worksheet.

Action-planning with THECB staff and/or a third-party evaluator selected by the THECB to identify and develop strategies to address specific areas for improvement based on findings of the self-evaluation process.

Awarded applicants are required to engage in all phases and are encouraged to use grant funds to support this process. Grantees will have access to both internal staff and/or external resources provided by the THECB to engage in all phases of this process.

### 10.5 PARTICIPATION

Awarded applicants must attend a virtual convening at a mutually agreed upon time with THECB staff to ensure compliance with reporting and evaluation timelines and gather feedback.

THECB reserves the right to request that awarded applicants attend virtual meetings with THECB staff or designee to evaluate the progress of the ACE Program.

Awarded applicants shall develop a “One-Pager” for their ACE Grants program based on a THECB provided template. By participating in the ACE Grant program, applicants agree that THECB may incorporate the “One-Pager” into the SSPI.

1. Draft “One-Pager” due September 30, 2025
2. Final “One-Pager” due October 30, 2026

## 11. TERMS AND CONDITIONS

### 11.1 TERMINATION

Notwithstanding the termination or expiration of this Grant Agreement, the provisions of this Grant Agreement 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 Grant Agreement.

#### 11.1.1 Convenience of the State

THECB, in its sole discretion, may terminate this Grant Agreement upon one (1) calendar day’s written notice to Grantee. Such notice will be provided in accordance with Section 11.35 of this Grant Agreement. In the event of such termination, Grantee shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. THECB sole and maximum obligation shall be to pay Grantee for previously authorized services completed in accordance with the Grant Agreement and performed prior to the effective date of termination. THECB shall have no other liability, including no liability for any costs associated with the termination.

#### 11.1.2 Termination for Cause

THECB may, by written notice to Grantee, immediately terminate this Grant Agreement for cause if: (a) THECB is not reasonably satisfied with Grantee’s performance; (b) default or abandonment by Grantee occurs; or (c) Grantee

fails to comply fully with any term or condition of this Grant 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 or comply with terms of this Grant 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 reasonable costs, fees, expenses, and other damages available to THECB including but not limited to, attorney's fees, court costs, and any other consequential damages to the state of Texas and THECB resulting from Grantee's non-performance or non-compliance.

### **11.1.3 Abandonment or Default**

If Grantee abandons or defaults on the Grant Agreement, THECB reserves the right to terminate the Grant Agreement without notice and re-award the Grant Agreement to the next best responsive and responsible Grant Applicant. The defaulting Grantee will not be considered in the re-award 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 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 Agreement, on the part of THECB, wholly unreasonable or impossible. THECB reserves the right, at its sole discretion, to unilaterally amend this Grant Agreement throughout the Grant Agreement Term to incorporate any modifications necessary for THECB's compliance, as a Texas state agency, with all applicable state and federal laws, rules, regulations, requirements, and guidelines.

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

The Grant 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 Agreement, as well as Grant Agreement provisions regarding confidentiality, records retention, right to audit, ownership, and dispute resolution, shall survive the termination of this Grant 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 work immediately upon the effective date of termination, unless otherwise agreed to in writing by the Parties. For any termination by THECB other than termination for non-appropriation, THECB shall be liable to Grantee for only that portion of the previously authorized performance completed in accordance with Grant Agreement requirements and performed prior to the effective date of termination.

### 11.1.7 Transfer of Duties

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

## 11.2 Amendment

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

## 11.3 Indemnification, Acts or Omissions

*(This section does not apply to state agencies, local government entities, or political subdivisions of the state of Texas.)*

GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND THECB, AND/OR 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 GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL 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 OF TEXAS. 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 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 Texas state laws; (2) to extend liability to THECB beyond such liability provided for in the Texas Constitution and

Texas state laws; or (3) as a waiver of any immunity provided by the Eleventh Amendment or any other provision of the United States Constitution or any immunity recognized by the courts and the laws of the state of Texas and the United States. The state of Texas and THECB do not waive sovereign immunity by entering into this Grant Agreement and specifically retain such immunity and all defenses available to them under Texas state laws or common law.

### **11.5 Assignment**

Grantee shall not assign its rights under the Grant Agreement or delegate the performance of its duties under the Grant Agreement without THECB's prior written approval. 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 Agreement, no contractual rights, interest, or obligation shall be delegated or subcontracted by Grantee without THECB's prior written approval. No delegation or subcontract approved by THECB shall relieve Grantee of any obligation or responsibility under this Grant Agreement and Grantee shall ensure that the terms and conditions of this Grant Agreement are applicable to any subcontractor. 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 Businesses (HUB), as defined in Texas Government Code § 2161.001(2), during the performance of this Grant 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 Agreement, or indirectly through a subcontract under this Grant 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 Audit Entities in the conduct of an 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 assures 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 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 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 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 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 Texas Grant Management Standards**

Grantee agrees to follow and comply with the Texas Grant Management Standards (TGMS), including all of its applicable conditions and State Assurances. TGMS is herein incorporated for all purposes into this Agreement. All applicable conditions and uniform assurances can be found at <https://comptroller.texas.gov/purchasing/docs/grant-management-reader.pdf>.

### **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. 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 THECB's attention and may deny reimbursements or recover payments made by THECB to Awarded Applicant in the event of Awarded Applicant's failure to so comply.

### 11.11 Site Visits

Throughout the Grant Term, THECB and/or its representatives shall have the right to make site visits to review the Texas Innovative Adult Career Education Program 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 THECB's discretion and in compliance with Texas law, 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.

### 11.15 Child Support Obligation Family Code

*(Not applicable to state agencies, government entities, or nonprofits.)*

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

### 11.16 Dispute Resolution

The dispute resolution process provided in Texas Government Code Chapter 2009 is available to the Parties to resolve any disputes arising under the Grant Agreement.

### 11.17 Public Disclosure

Publication, including presentations, is encouraged; however, Awarded Applicant agrees to notify THECB prior to the publication of any information, including results, findings, or reports regarding the activities being conducted under this RFA. Awarded Applicant shall ensure the following statement is 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 policies of THECB.*

Should Awarded Applicant be contacted by any news media about any information, including results, findings, or reports regarding activities being conducted under this RFA, Awarded Applicant shall notify its THECB Point of Contact, when possible, before communicating with news media. If that is 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 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.

### **11.18 Confidentiality, Public Information Act, and FERPA**

Notwithstanding any provisions of this 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 rulings and opinions of the Attorney General 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.

#### **11.18.1 Public Information Act**

THECB will determine whether to submit a request for a ruling seeking to withhold information from a Public Information Act requestor to the Open Records Division of the Office of the Attorney General of Texas. This Grant 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 Point of Contact within twenty-four (24) hours of receipt of any third-party requests for information it receives relating to this Grant Agreement. In accordance with Texas Government Code § 2252.907, Grantee is required to make any information created or exchanged with THECB pursuant to this Grant 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 THECB 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 Agreement, including information which discloses confidential personal information. Grantee will not disclose any information to which it is privy under this Grant Agreement without THECB's prior written consent. Grantee will indemnify and hold harmless the state of Texas, its officers, and its employees and THECB, its officers, and its 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 Agreement.

All submitted Applications become the property of THECB after the RFA submittal deadline date. Upon acceptance of the Grant Agreement, all information submitted with Applicant's Application becomes public record and all information submitted with Awarded Applicant's Application becomes part of the Grant Agreement. 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 or copyrighted materials included in Applicant's Application may be subject to disclosure unless such proprietary information or copyrighted materials is clearly identified by Applicant, and such identification is 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 should be in boldface type at least 14-point font.

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 THECB to violate any law, including the Texas Public Information Act.

### **11.18.2 Family Educational Rights and Privacy Act**

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

### **11.18.3 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 FERPA (34 C.F.R. § 99.33(a)(2)) and with the terms set forth in Section 11, Terms and Conditions. FERPA, 34 C.F.R. § 99.33(a)(2), states that the officers, employees, and agents of a party that receives education record information from THECB may use the information, but only for the purposes for which the disclosure was made.

### **11.18.4 Acknowledgment of Access to Covered Data and Information**

Grantee acknowledges that the Grant Agreement allows Grantee access to Covered Data and Information (CDI).

### **11.18.5 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 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.

#### 11.18.6 Return or Destruction of CDI

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

#### 11.18.7 Breach

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

#### 11.18.8 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.

#### 11.18.9 Reporting of Unauthorized Disclosures and/or Misuse of CDI

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

### 11.19 Infringements

*(This section does not apply to state agencies, local government entities, or political subdivisions of the state of Texas.)*

GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS, THECB, AND THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, OTHER CONTRACTORS, ASSIGNEES, OFFICERS, AND DESIGNEES FROM AND AGAINST ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK, SERVICE MARK, TRADE SECRET OR OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHT IN CONNECTION WITH OR ARISING FROM 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 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 OF TEXAS. 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 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 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.

### 11.20 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 work performed under the Grant Agreement. **Use as applicable to your grant program:** All Work generated as a result of this Grant Agreement, either completed or partially completed, shall be the sole property of THECB and all rights, title, and interest in and to the Work shall vest in THECB upon payment for the services.

All such Work shall be delivered to THECB by Grantee upon completion, termination, or cancellation of this Grant Agreement. All property rights, including publication rights, hereunder shall be retained by THECB, and Grantee shall assert no right in law or equity to such Work. THECB shall have the right to obtain and to hold in its own name any and all patents, copyrights, marks, or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof.

Copyright. When copyrightable material is developed in the course of or under this Grant Agreement, Awarded Applicant is free to copyright the materials or permit others to do so. 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 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 Agreement.

Data. 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 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 THECB has authorized Grantee 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 Agreement without THECB’s prior written consent; 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.

### **11.21 Governing Law and Venue**

The Grant Agreement shall be governed by and construed in accordance with Texas state laws, without regard to the conflicts of law provisions. The venue of any suit arising under the Grant Agreement 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 THECB.

### **11.22 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, administrative body, or tribunal in any matter affecting the performance of this Grant Agreement, including applicable workers’ compensation laws, compensation statutes and regulations, and licensing laws and regulations. Upon THECB’s request, 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 Grantee’s 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 under this Grant Agreement.

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 in accordance with this Grant Agreement competently and professionally, (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 Agreement or Grantee's right or ability to perform Grantee's obligations under this Grant 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 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 Agreement.

### 11.23 Conflict of Interest

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

### 11.24 Disclosure of Interested Parties

THECB may not execute a grant valued at \$1 million dollars or more 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 has an online portal for vendors/grantees. 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 the form before sending a final copy to THECB at [Procurement@highered.texas.gov](mailto:Procurement@highered.texas.gov). The Texas Ethics Commission portal link can be found at: <https://www.ethics.state.tx.us/filinginfo/1295/>.

### 11.25 Financial Interests and Gifts

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

### 11.26 Antitrust

The undersigned affirms under penalty of perjury of Texas state laws that: "(1) in connection with this Grant Agreement, neither I nor any representative of 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 Agreement, neither I nor any representative of Grantee have violated any federal

antitrust law; and (3) neither I nor any representative of Grantee have directly or indirectly communicated any of the contents of this Grant Agreement to a competitor of Grantee or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Grantee.”

### **11.27 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 Agreement.

### **11.28 Independent Contractor**

Grantee shall be an independent contractor in all matters relating to this Grant 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.

### **11.29 Eligibility/Authorization to Work in the United States**

Grantee shall ensure that all personnel provided to perform work under this Grant 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 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 Agreement and THECB shall have the right to terminate the Grant Agreement

for cause. Grantee shall ensure this section is included in all subcontracts it is authorized by THECB to enter.

### **11.30 Taxes, Workers' Compensation Insurance, and Unemployment Insurance, Including Indemnity**

*(This section does not apply to state agencies, local government entities, or political subdivisions of the state of Texas.)*

GRANTEE AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS GRANT 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 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 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 DEFEND, 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 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 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 OF TEXAS. 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 THECB rules relating to Texas Innovative Adult Career Education Program as codified in Title 19, Part 1 of the Texas Administrative Code, Chapter 10) and the orders and decrees of any court, administrative body, or tribunal in any matter affecting the performance of the Grant Agreement, including, if applicable, workers' compensation laws, compensation statutes and regulations, and licensing laws and regulations. Upon THECB's request, Grantee shall furnish THECB with satisfactory proof of its compliance.

### 11.31 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 Agreement are not prohibited by Texas Government Code §§ 556.005 or 556.008.

### 11.32 Buy Texas

In accordance with Texas Government Code § 2155.4441, Grantee agrees that during the performance of a Grant 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.

### 11.33 Provision of Services

If applicable, upon THECB's request 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 Agreement.

### 11.34 Force Majeure

THECB may grant relief from performance of this Grant 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 Grantee. The burden of proof for the need of such relief shall rest upon 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.

### 11.35 Notice

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

Method of Notice. All notices must be given by (i) personal delivery, (ii) express courier (with confirmation), (iii) registered or certified mail (return receipt requested), or (iv) electronic mail to the Parties at the address specified in this Grant 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 Agreement will be effective upon receipt by the Party to which it is given or, if mailed by registered or certified mail, upon the earlier of receipt or the third business day following mailing.

THECB 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.

### 11.36 False Statements; Breach of Representations

Grantee represents and warrants that all statements and information prepared and submitted to THECB are current, complete, true, and accurate. Submitting a false

statement or material misrepresentations made during the performance of a Grant Agreement is a material breach and may void the Grant Agreement.

### 11.37 Severability and Waiver

The invalidity, illegality, or unenforceability of any provision of this Grant 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 Agreement shall be construed to operate as a waiver of any rights under the Grant Agreement, or of any cause of action arising out of the performance of the services required by the Grant Agreement.

### 11.38 Human Trafficking Prohibition

"Under Section 2155.0061, Texas Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate." Tex. Gov't Code § 2155.0061.

### 11.39 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 Texas Government Code § 2252.152.

### 11.40 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>.

### 11.41 Notification of Grant Agreement

*(Only applies to employees of a Texas state agency or any public or private 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.

### 11.42 Insurance

Only if required by law, Grantee agrees to maintain at its expense insurance as required for the work being performed under this Grant 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 Grantee’s obligations under the Agreement. Grantee represents and warrants that it will, within ten (10) business days of award of Grant Agreement, 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.

Minimum Required Amounts of Insurance Coverage	
Type of Insurance	Each Occurrence/Aggregate
<i>Workers’ Compensation</i>	Statutory Limits
<i>Employer’s Liability</i> 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
<i>Commercial General Liability</i> (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
<i>Automobile Liability</i> All Owned, Hired and Non-Owned Vehicles	\$500,000 Combined Single Limit (for Each Accident)
<i>Umbrella/Excess Liability</i>	\$1,000,000 Per Occurrence

Note: The required insurance coverage must be issued from a company or companies that have both: (1) a Financial Strength Rating of “A” or better from A.M. Best Company, Inc.; and (2) 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 Texas state laws and in a form satisfactory to THECB. All required insurance contracts must be written on a primary and non-contributory basis with any other insurance coverages Grantee currently has in place; and 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) Give written notice to THECB by e-mail at [Procurement@highered.texas.gov](mailto:Procurement@highered.texas.gov) and by U.S. First Class Mail to 1801 N. Congress Ave. Suite 12.200, Austin, Texas 78701 at least thirty (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 Agreement; and
- (3) Deliver to THECB by e-mail at [Procurement@highered.texas.gov](mailto:Procurement@highered.texas.gov) and by U.S. First Class Mail to 1801 N. Congress Ave., Suite 12.200, Austin, Texas 78701, all renewal policies at least ten (10) 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 Agreement.

Grantee must ensure that all provisions of the Grant 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 Agreement.

### **11.43 Debts and Delinquencies to the State**

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

### **11.44 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 officers have 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.

### **11.45 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 Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

#### **11.46 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.

#### **11.47 E-Verify: U.S. Department of Homeland Security's E-Verify System**

By entering into this Grant Agreement, Grantee certifies and ensures that it utilizes and will continue to utilize, for the Grant Agreement Term, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of all persons: (a) employed to perform duties within Texas, during the Grant Agreement Term; and (b) (including subcontractors) assigned by Grantee to perform work pursuant to the Grant Agreement, within the United States of America.

Upon THECB's request, Grantee shall provide an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by Grantee, and Grantee's subcontractors, as proof that this provision is being followed.

If this certification is falsely made, this Grant Agreement may be immediately terminated, at THECB's or the state of Texas's discretion and at no fault to THECB or the state, without prior notification. Grantee shall also be responsible for the costs of any re-solicitation that THECB or the state of Texas must undertake to replace the terminated Grant Agreement.

#### **11.48 Drug-Free Workplace**

Grantee represents and warrants that it shall comply with the applicable provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701, et seq.) and maintain a drug-free work environment.

#### **11.49 No Commissions**

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

#### **11.50 Applicable Taxes**

This Grant 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 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 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 Grantee's request.

### 11.51 Electronic and Information Resources Accessibility Standards

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 Title 1, Texas Administrative Code, Part 10, 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 the Texas Department of Information Resources (DIR) with the Uniform Resource Locator (URL) to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with Texas state 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” (<https://www.section508.gov/buy/>). 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/>.

### 11.52 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. Grantee, by acceptance of this Grant Agreement, agrees to abide by this policy when on THECB’s property.

### 11.53 Substitutions

Substitutions are not permitted without THECB’s written approval.

### 11.54 Grantee Information Responsibilities

*(Applicable for Agreements \$1 Million and Above)*

Grantee represents and warrants that it will comply with the requirements of Texas Government Code § 552.372(a). Except as provided by Texas Government Code § 552.374(c), the requirements of Texas Government Code §§ 552.371-.766 may apply to the Grant Agreement and Grantee agrees that the Grant Agreement can be terminated if Grantee knowingly or intentionally fails to comply with a requirement of that subchapter.

### 11.55 Cybersecurity Training

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

### 11.56 Disaster Recovery Plan

Upon THECB's request, Grantee shall provide the descriptions of its business continuity and disaster recovery plans. 13 Tex. Admin. Code § 6.94(a)(9).

### 11.57 Entire Agreement and Order of Precedence

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

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) Any duly executed amendments to the final executed Grant Agreement;
- (2) The final executed Grant Agreement, including its exhibits;
- (3) The original Request for Applications including any addenda issued; and
- (4) Grantee's Application in response to the Request for Applications, including any addenda.

This Grant 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 the Parties relating to the subject matter of this Grant Agreement. The Parties further agree that this Grant 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 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 eligible Nonprofit Organization Workforce Intermediary and Job Training Organization as 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 submitted by an Applicant to THECB in response to and in accordance with the terms of this RFA.
3. **Awarded Applicant** – The successful recipient ultimately awarded a Grant by THECB who is responsible for performing all activities required to fully comply with Grant performance requirements and all Grant terms and conditions.
4. **Civilian Workforce Credential** – Refers to certifications, licenses, or other formal recognition that demonstrate an individual’s expertise in a specific field or occupation awarded by non-governmental certification agencies.
5. **Low-Income Student** – A student whose household income is at or below 200% of the Department of Health and Human Service's federal poverty guidelines.
6. **NOGA or Notice of Grant Award** – Term applied to the official document used by 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,” “Grant Agreement,” and “Grant” are used interchangeably.
7. **Nonprofit Organization** – An organization exempt from federal income taxation under §501(a), Internal Revenue Code of 1986, as an organization described by §501(c)(3) of that Code.
8. **Nonprofit Workforce Intermediary and Job Training Organization** – A nonprofit organization that engages in comprehensive long-term job training in partnership with a public junior college, public state college, or public technical institute and provides labor market intermediary services to participating students.
9. **Program** – Texas Innovative Adult Career Education (ACE) Grant Program established under Texas Education Code, chapter 136.
10. **Public Junior College, Public State College, and Public Technical Institute** – An institution as defined by Texas Education Code, §61.003.
11. **State Fiscal Year** – The period of time beginning on September 1 and ending on August 31 of the following year, both dates inclusive.

## Texas Innovative Adult Career Education Program RFA

12. **State of Texas Business Days** – Monday through Friday, 8:00 a.m. to 5:00 p.m. CT, except for scheduled state of Texas and national holidays.
13. **TX Student Success Program Inventory (SSPI)** – The TX SSPI is an online hub hosted on OERTX which organizes detailed information about innovative and impactful student success programs at Texas colleges and universities on an easy-to-use, searchable online platform.
14. **THECB** – The Texas Higher Education Coordinating Board, a Texas state agency.
15. **Veteran** – A person who:
  - a. has served in:
    - i. the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States;
    - ii. the state military forces as defined by §431.001, Government Code, other than the Texas State Guard; or
    - iii. an auxiliary service of one of those branches of the armed forces; and
  - b. received an honorable or general discharge from the branch of service in which the person served.

## Appendix B: CALENDAR OF EVENTS

November 25, 2024	Request for Applications Published (anticipated)
December 6, 2024	Notice of Intent Deadline
December 11, 2024	Inquiry Deadline
December 16, 2024	Application Deadline
January 6, 2025	THECB Announces Grant Awards
January 15, 2025*	Anticipated Grant Period Start Date
September 30, 2025	First Project Report and Interim Expenditure Report is Due to THECB
August 31, 2026	Grant Period Ends - Last Day to Expend Grant Funds
October 30, 2026	Second/Final Project Report and Final Expenditure Report is Due to THECB
October 30, 2026	Program One Pager Due to THECB
October 30, 2026	Unexpended Grant Funds Due to THECB

\*Grant Period begins January 15, 2025, or upon execution of Notice of Grant Award, whichever is later.

## Appendix C: APPLICATION EVALUATION FORM

Program Components		
1. Program Overview	Maximum Points	Points Awarded
Clarity of Applicant’s program overview, impact, and the degree to which it aligns with the selected program focus area.	15	
<b>2. Rationale for Funding</b>		
a. Strength/clarity of Applicant’s rationale to implement the program.	10	
b. Strength/clarity of Applicant’s description of program impact on student persistence and certificate or degree completions.	10	
c. Strength/clarity of plan to meet the matching funds criteria.	10	
<b>3. SMART Goals, Background Data, and Main Activities</b>		
a. Applicant identified reasonable and attainable goals	10	
b. Strength/clarity of Applicant’s ability to meet or exceed above-average rates for developmental education, persistence, completion, and entry into careers with higher earnings.	10	
c. Strength/clarity of Applicant’s identified main activities, alignment to their goals and their appropriateness to ensure full implementation of the submitted program.	10	
<b>4. Budget</b>		
<b>Budget for the project is reasonable and cost effective.</b>	10	
<b>5. Priority Criteria (additional points)</b>		
<b>Applicant received a Texas Innovative Adult Career Education Program grant in the past and successfully executed it.</b>	15	
<b>TOTAL POINTS AWARDED</b>	100	

## Appendix D: CHECKLIST OF REQUIRED FORMS AND ATTACHMENTS

Required Information (RFA Section)	Application Form / Attachment
CERTIFICATION OF APPLICATION INFORMATION AND LEADERSHIP COMMITMENT	Form 1 - Certification
GRANT APPLICATION	Form 2 - Project Narrative
PROJECT BUDGET	Form 3 - Project Budget
FINANCIAL VIABILITY	Attachment(s)

## Appendix E: SAMPLE NOTICE OF GRANT AWARD



THECB Award Number: {XXXX}  
Appropriation Year (AY): 2025

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

Grantee Name and Address:  {contracted_party} {contractedPartyAddress} {contractedPartyCity}, {contractedPartyState} {contractedPartyZip}	Grant Title: <b>Texas Innovative Adult Career Education (ACE) Program</b>
	Amount of Award: \$ {total_\$}
	Division: <b>Student Success</b>
	Term of Grant: <b>Upon Execution or January 15, 2025, whichever is later – August 31, 2026</b> All funds must be incurred by <b>August 31, 2026</b> .
	Payment Method: Funds are payable after execution of the NOGA Fifty percent (50%) payable upon execution and fifty percent (50%) payable upon receipt and approval by THECB staff of reporting requirements as detailed in the RFA. The advancement of funds is necessary to enable the Grantee to fully perform the Services described in its Application. All funds will be disbursed using AY 2025 funds.
Authority: State appropriations, GAA 88th Legislature, HB1.	
<p>The Texas Higher Education Coordinating Board’s (THECB) and 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 Applications (RFA) including any addenda issued, (2) addenda to 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.</p> <p>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.</p>	
Signed by THECB Official:	Signed by Grantee Official:
{sign Contact} {sign Contact title}	{signed_by} {signed_by title}
Date:	Date: