



REQUEST FOR APPLICATIONS

OPEN EDUCATIONAL RESOURCES (OER)

COURSE DEVELOPMENT AND IMPLEMENTATION

GRANT PROGRAM

2020-2022

RFA # 23906

**APPLICATION DEADLINE: THREE ROUNDS OF AWARDS WITH
FINAL DEADLINE OF 11:59 p.m. CST, January 11, 2021**

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1. OVERVIEW OF FUNDING OPPORTUNITY

1.1. PROGRAM TITLE

Open Educational Resources (OER) Course Development and Implementation Grant Program

1.2. SYNOPSIS OF PROGRAM

The Open Educational Resources (OER) Course Development and Implementation Grant Program is established to enhance quality in online course offerings and reduce the costs of educational materials for students at Texas public and independent institutions of higher education through matching grants to support the development of new open educational resources (OER) for online delivery and/or the redesign of courses using existing OER. Grants will support teams of faculty engaged in this work. Two categories of grants are available under this RFA:

- Development Grants – matching grants of up to \$25,000 to support faculty teams in developing **new** OER for online course delivery. Cross-institutional collaboration is **required** for Development grants; and
- Implementation Grants – matching grants of up to \$5,000 to support faculty or teams of faculty in the redesign of courses for online delivery using **existing** OER. Cross-institutional collaboration is **encouraged** for Implementation grants.

This Request for Applications (“RFA”) is to support eligible Applicants that intend to propose faculty-led projects (with matching funds provided by the Applicant(s)) for improving online learning and reducing costs of instructional materials to students for Texas Core Curriculum courses, with priority for core courses that are among the 50 most frequently transferred courses for the participating institution(s) or the state, co-requisite remediation for Texas Core Curriculum Courses, including non-course based options, and/or courses from the Workforce Education Course Manual (WECM) course inventory, with priority for courses leading to high-value workforce credentials that correspond to high-need occupations.

1.3. PROGRAM AUTHORITY

The OER Course Development and Implementation Grant Program stems from the allocation of \$175 million provided to the Texas Higher Education Coordinating Board from the Governor’s Emergency Educational Relief (GEER) Fund. GEER dollars, in turn, originate from the U.S. Department of Education’s administration of the Education Stabilization Fund in the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020. The CARES Act (HR 748/S 3548 of the 116th Congress) was signed into law on March 27, 2020.

1.4. FUNDING SOURCE:

CFDA CODE: Catalog of Federal Domestic Assistance Code, 84.425 - Governor's Emergency Education Relief Fund

Federal Awarding Agency: U.S. Department of Education
Federal Award Number: 2020-GE-84425C

1.5. POINT OF CONTACT

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

Kylah Torre, Program Director

Academic Quality and Workforce

Texas Higher Education Coordinating Board

Email: OER@highered.texas.gov

Phone: 512-427-6298

1.6. 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. All responses by THECB must be in writing to be binding.

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 OER@highered.texas.gov.

A webinar or webinars may be held to introduce faculty from eligible institutions to the grant program and allow for questions. Any such webinar would be announced through GovDelivery and posted on the THECB website at www.highered.texas.gov/oerGEER.

2. AWARD SUMMARY

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

The THECB expects to award two categories of grant awards under this RFA:

Development Grants:

- A maximum of \$25,000 for developing new OER for one or more courses.

Implementation Grants

- A maximum of \$5,000 to support the substantial redesign of a course to incorporate OER resources.

The THECB expects to award grants in three rounds, contingent upon available funding. The deadline for Round 1 is 11:59 pm on November 17, 2020. The deadline for Round 2 is 11:59 pm on December 15, 2020. The deadline for Round 3 and the final deadline for submission is 11:59 pm on January 11, 2021.

2.2. GRANT PERIOD

The Grant Period will begin upon the execution of the Notice of Grant Award (NOGA) and will conclude August 31, 2022. Awarded Applicants will have contractual obligations that extend beyond the Grant Period.

At the THECB's sole discretion, the second half of funding is contingent upon the Awarded Applicant using the grant funds according to the grant contract terms and conditions and meeting established benchmarks and deadlines.

2.3. SELECTION FOR FUNDING

The funding available to support OER Course Development and Implementation Grants 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 with three rounds of awards, contingent on available funds, with the third and final application submission deadline of 11:59 pm on January 11, 2021. Eligible Applicants are welcome to submit at any time before 11:59 pm on January 11, 2021 and applications will be reviewed in three rounds, according to the calendar below. Applications submitted after the specified due date for Round 1 will be considered in Round 2 and applications submitted after the specified due date in Round 2 will be considered in Round 3. Applications submitted after 11:59 pm on January 11, 2021 will not be considered under this RFA. A Calendar of Events for the entire Grant Period is in Appendix B.

Round 1

Dates	Application Steps
November 17, 2020	Application Submission Deadline
December 11, 2020	THECB Anticipates Announcement of Grant Awards for Round 1

Round 2

Dates	Application Steps
December 15, 2020	Application Submission Deadline
January 26, 2021	THECB Anticipates Announcement of Grant Awards for Round 2

Round 3

Dates	Application Steps
January 11, 2021	Application Submission Deadline
February 19, 2021	THECB Anticipates Announcement of Grant Awards for Round 3

3. ELIGIBILITY REQUIREMENTS

3.1. ELIGIBLE APPLICANT

Entities in the following categories and located in the state are eligible to apply for an OER Course Development and Implementation Grant Award:

- (a) Public institutions of higher education including universities, community colleges, state colleges, and technical colleges; or
- (b) Independent institutions of higher education.

Cross-institutional collaboration is required for Development grants and regional partnerships among institutions with frequent inter-institutional student transfer or among institutions serving similar regional workforce needs are especially encouraged.

An eligible Applicant may partner with an Awardee of the OER Technical Assistance Grant Program for the purpose of providing support for the operation of development and implementation grants and helping to scale OER use at an individual institution and/or across

Texas institutions. A list of Awardees of the OER Technical Assistance Grant program may be found on the THECB website at www.highered.texas.gov/oerGEER.

See Appendix A, Definitions, for further description of the entities listed in (a) through (b) above.

3.2. ELIGIBLE PROJECTS

Applications submitted under this RFA must propose to either:

1. Develop new OER for online delivery of one or more courses, with institutional cross-collaboration and matching funds from the institutional Applicant(s) (Development Grants).
2. Redesign one or more courses for online delivery, incorporating existing OER, with matching funds from the institutional Applicant (Implementation Grants).

FOR DEVELOPMENT GRANTS: Eligible Applicants may form consortia of up to five institutions and request up to five matching grants of \$25,000 each (total \$125,000 per consortium) for development of a single course to be deployed at each of the participating institutions.

Courses eligible for development or redesign include:

1. Texas Core Curriculum courses, with priority for core courses that are among the 50 most frequently transferred courses for the participating institution(s) or the state. Dual credit courses are eligible. See the grant program website (www.highered.texas.gov/oerGEER) for a list of priority courses at the state level.
2. Co-requisite remediation for Texas Core Curriculum Courses, including non-course based options.
3. Courses from the Workforce Education Course Manual (WECM) course inventory, with priority for courses leading to high-value workforce credentials that correspond to high-need occupations.

The courses must be developed for online delivery.

Materials must be offered to students at no cost except the cost of printing (should students choose to print materials).

The course must be taught using only OER for at least two terms and required metrics must be reported to THECB (see Section 10.2 for reporting requirements).

The proposed courses must not be a part of another grant program or funding source offering funds to develop OER (e.g., Achieving the Dream). Institutions who employ faculty member Awardees of the state-funded OER Grant Program are eligible but must not propose the same project funded by the state OER Grant Program.

All resources created under the OER grant program must be made available for inclusion in the state OER repository, OERTX.

Materials created must either reside in the public domain or be licensed under a Creative Commons Attribution (CC BY) license. Creative Commons (CC) licenses allow content creators to retain copyright while allowing others to copy, distribute, and make some uses of their work. A CC license ensures licensors get the credit for their work. Additionally, a CC license is international and continues as long as applicable copyright lasts. CC licenses have become the standard worldwide for copyright of OER. For more information on CC licenses, see "About the Licenses" on the CC website (<https://creativecommons.org/licenses/>). Applicants wanting to copyright OER developed for this grant program under a CC license that differs from that stated above must provide a rationale in the application.

3.3. PRIORITY PROJECTS

Applications that meet one or more of 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 multiple Applications but only (1) application for a Development Grant and one (1) application for an Implementation Grant for a particular course.

3.5. NOTICE OF INTENT TO APPLY

A Notice of Intent to Apply (NOI) is not required.

4. APPLICATION SUBMISSION

4.1. APPLICATION DEADLINE: THREE ROUNDS WITH SCHEDULED DEADLINES: ROUND 1, 11:59PM, NOVEMBER 17, 2020; ROUND 2, 11:59PM DECEMBER 15, 2020; ROUND 3, 11:59PM JANUARY 11, 2021

Applications must be:

- completed according to the guidelines in Section 8
- submitted by an authorized agent of the Applicant entity
- signed by the Chief Academic/Instructional Officer of the Applicant entity
- submitted via email to OER@highered.texas.gov to the Point of Contact listed in Section 1.4.

*Late or incomplete Applications will not be accepted. Applications submitted to an address different from OER@highered.texas.gov will **not** be accepted.*

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

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

4.2. THECB CONFIRMATION OF APPLICATION RECEIPT

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

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

4.3. COST OF APPLICATION PREPARATION

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

4.4. APPLICATION DELIVERY AND LATE APPLICATIONS

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

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

5. PROGRAM BACKGROUND

5.1. FUNDING ORIGINATION

Under the Governor’s Emergency Education Relief Fund (GEER Fund), the U.S. Department of Education awarded grants to Governors for the purpose of providing local educational agencies (LEAs), institutions of higher education (IHEs), and other education related entities with emergency assistance for students and institutions most significantly impacted by the Novel Coronavirus Disease 2019 (COVID-19). The THECB has allocated GEER Fund resources to establish the OER Course Development and Implementation Grant Program to enhance quality in online course offerings and reduce the costs of educational materials for students at Texas public and independent institutions of higher education through matching grants to support the development of new open educational resources (OER) for online delivery and/or the redesign of courses using existing OER.

5.2. DETAILED PROGRAM OVERVIEW

OER Course Development and Implementation Grants are intended to support the development of new OER for online delivery and/or the redesign of courses for online delivery using existing OER:

- Development Grants – matching grants of up to \$25,000 to support faculty teams in developing **new** OER for online course delivery. Cross-institutional collaboration is **required** for Development grants; and
- Implementation Grants – matching grants of up to \$5,000 to support faculty or teams of faculty in the redesign of courses for online delivery using **existing** OER. Cross-institutional collaboration is **encouraged** for Implementation grants.

The THECB will distribute the grant funds competitively through this RFA process. Eligible Applicants must propose faculty-led projects (with matching funds provided by the Applicant(s)) for improving online learning and reducing costs of instructional materials to students for the following types of courses:

- Texas Core Curriculum courses, with priority for core courses that are among the 50 most frequently transferred courses for the participating institution(s) or the state. Dual credit courses are eligible. See the grant program www.highered.texas.gov/oerGEER for a list of priority courses at the state level.

- Co-requisite remediation for Texas Core Curriculum Courses, including non-course based options.
- Courses from the Workforce Education Course Manual (WECM) course inventory, with priority for courses leading to high-value workforce credentials that correspond to high-need occupations.

FOR DEVELOPMENT GRANTS: Eligible Applicants may form consortia of up to five institutions and request up to five matching grants of \$25,000 each (maximum of \$125,000 per consortium) for development of a single course to be deployed at each of the participating institutions.

6. PROJECT REQUIREMENTS

6.1. FUNDING RESTRICTION

OER Course Development and Implementation Grant Program funds must not be substituted for any other funds available to the Applicant or any program or project partners. Awarded funds shall be spent only on expenses that support the OER Course Development and Implementation Grant Program as documented in the Applicant's Budget and Timeline.

The proposed courses must not be a part of another grant program or funding source offering funds to develop OER. Institutions that employ faculty member Awardees of the state-funded OER Grant Program are eligible for this grant program but must not propose the same project funded by the state OER Grant Program.

Matching funds may be in-kind but cannot include faculty salaries.

6.2. ALLOWABLE COSTS AND PROHIBITED COSTS

6.2.1. Allowable Cost Categories.

Each Grant Award is made available to the Applicant for the development and delivery of course materials that are "in the public domain or have been released under an intellectual property license that permits the free use, adaptation, and redistribution of the resource by any person." Course materials may include full course curricula, course materials, modules, textbooks, media, assignments, software, and any other tools, materials, or techniques, whether digital or otherwise, used to support knowledge.

Examples of categories that Award funds may be used for include: instructional design, project management, faculty summer salaries, digital media production, or other costs directly related to content development.

Both categories of grants must be matched with contributions from the institution or institutions (contributions can be in-kind but cannot include faculty salaries).

6.2.2. Prohibited Costs.

The following kinds of costs shall not be paid with OER Course Development and Implementation Grant Program funds:

- Costs incurred prior to the grant period;
- Indirect costs;
- Foreign travel;
- Travel not consistent with state of Texas guidelines.

Both categories of grants must be matched with contributions from the institution or institutions (contributions can be in-kind but cannot include faculty salaries).

6.2.3. Budget Changes

Budget changes require submission of a Budget Change Request. All changes to the final budget require authorization in writing from the THECB's Point of Contact for the OER Course Development and Implementation Grant Program. Budget change requests related to this RFA are limited to changes to the timing of expenditures.

7. AWARD SELECTION CRITERIA – THREE ROUNDS WITH SCHEDULED DEADLINES: ROUND 1, 11:59 PM, NOVEMBER 17, 2020; ROUND 2, 11:59 PM DECEMBER 15, 2020; ROUND 3, 11:59 PM JANUARY 11, 2021

Each Applicant must 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 goal of this RFA to develop new and/or implement existing OER for online delivery. 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. (See Appendix C for Evaluation Criteria Form.) THECB will not make an award to any Applicant who does not make all the certifications required under this RFA.

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 the THECB to qualify for further consideration.

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

Each Application that meets the eligibility requirements in Section 3 and 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

In addition to addressing the overall requirement in Section 3.2, an Applicant that proposes to develop OER or redesign OER for a Texas Core Curriculum course or courses among the 50 most frequently transferred courses for the participating institution(s) or the state may receive up to 5 additional points during application evaluation. See the grant program website (www.highered.texas.gov/oerGEER) for a list of eligible courses at the state level.

In addition to addressing the overall requirement in Section 3.2, an Applicant that proposes to develop OER or redesign OER for a course or courses from the Workforce Education Course Manual (WECM) course inventory leading to high-value workforce credentials that correspond to high-need occupations may receive up to 5 additional points during application evaluation. Applicants must describe how the selected course(s) meets this requirement for the region.

In addition to addressing the overall requirement in Section 3.2, an Applicant that proposes substantive inclusion of undergraduate students in the development of OER for the proposed course(s) may receive an additional 10% in funding.

7.3. GENERAL CRITERIA FOR AWARD SELECTION

Three expert reviewers will evaluate 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.

1. The project is well defined and grounded in principles of effective instructional design.
2. The project can be completed within the Grant Period, exclusive of teaching requirements.
3. The proposed project is realistic and appropriate to the goals identified by the Applicant.
4. The proposed activities and strategies are appropriate and are described in sufficient detail.
5. Project activities would likely continue after the Grant Period ends.
6. Project goals align with the overall goals of the RFA to develop or implement courses for online delivery that use only open educational resources (OER).
7. The course materials proposed are of sufficient quality to enhance course curricula, including student learning outcomes/objectives aligned to the OER as well as to assessments.
8. The course materials are provided to the student at no cost, other than the cost of printing.
9. The proposed project evaluation for determining the success of the project is described in sufficient detail and includes relevant information/data to be collected.
10. The expected outcomes are achievable using the resources and plans the Applicant submits.
11. The expected outcomes would make a significant impact on reducing the cost of educational resources in the course(s).
12. There are sufficient staffing and resources to ensure that project evaluation information/data will be properly collected and reported.

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

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 8.7 of this RFA. The Application Forms are available on the THECB website: www.highered.texas.gov/oerGEER.

In completing the Application, applicants must 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.

The file name shall read as the initials of the Applicant institution, the initials of the faculty member serving as point of contact, and the type of grant_Application.pdf (e.g. *UNT_KT_Development_Application_pdf*).

8.1.CERTIFICATION OF APPLICATION INFORMATION (FORM 1)

The Certification Page provides general information about the Application, including Applicant institution; names of faculty team members; proposed course numbers(s), title(s), and section(s); amount requested; category of grant application (Development or Implementation);

and authorized signatures. The Certification Page provides a signature by an authorized institutional representative to certify the accuracy and completeness of information submitted in the Application. The signatory must be an individual who is legally authorized to bind the Applicant institution.

8.2. PROJECT NARRATIVE (FORM 2)

8.2.1 Contact Information

Provide Applicant contact information. Provide Partner contact information (if applicable). Provide location information on the proposed program/project.

8.2.2 Project Summary

The summary must identify the Project Goal Statement (see Section 8.3.1) and provide a description of the overall project plan.

Specify the category of grant application (Development or Implementation), course name and number of the proposed course(s), how often each course is offered, and total enrollments for the most recent offerings of each course at the Applicant institution and Partner institution(s), if applicable.

Describe each course's current use of educational resources (e.g., textbooks) to support instruction and learning, the cost to the student for those resources, and the potential savings to students through the project.

Explain how funding, if awarded, would enhance instructional design, including effectively assessing all learning outcomes, while ensuring that the students incur no cost for the educational resources used in the course except for printing.

Describe in detail how the project will implement OER. Application must address the following questions:

- What are the anticipated challenges of replacing currently utilized learning materials with OER and how do you plan to overcome those challenges?
- What existing OER will you adopt and/or adapt/revise, if applicable, and are they available to the students at no cost other than the cost of printing?
- Have the proper permissions been obtained, if needed, for all resource(s), and can you ensure that materials created can be licensed under a CC BY license?
- What format(s) will be used (e.g., PDFs, e-text, video, etc.)?
- How can students, faculty, and others access the OER? How will accessibility (Electronic and Information Resources (EIR) accessibility) of these materials be ensured?
- How will alignment be ensured between learning outcomes and assessments, i.e. that the stated goals of the course match what is being assessed?
- How will OER support student mastery of learning?
- How will the project incorporate principles of effective instructional design?
- How will instructional designers, librarians, or other staff support the project?
- How will institutional and departmental administration support the project?
- Which academic semesters do you anticipate offering the developed course(s) that involve only OER?
- How will you insure quality assurance standards are adhered to (Quality Matters, Online Learning Consortium, etc.)?

If undergraduate students will be included in the development of OER, describe their roles and how they will be compensated.

Describe how your institution will continue the project or similar activities after the Grant Period ends. Identify any resources (time, effort, funds, etc.) that will be needed over the longer-term to sustain the effective use of the OER in the course(s) to support the learning outcomes, and how those needs can be met.

8.2.3 Description of Applicant and Partners

Provide information on Applicant and Partners (if applicable) expected to participate in the program/project, including expected detailed information on their roles and contributions. Clearly describe participants' level of commitment to the project, including percent of work allocated to project, if applicable. Include information about any third party or partner involvement. Provide clear explanation of relationship between Applicant and Partner(s), include whether the Applicant would delegate authority or responsibilities. Provide documentation per Section 8.7.

Describe a plan for significant collaboration with at least one other institution and up to four other institutions, if applicable (required for Development grants). Describe the institution(s), the relationship, the process for collaboration, how the collaboration will help to scale OER use for all partners, and a plan for sustainability of the partnership(s).

If the Applicant institution plans to partner with one of the Awardees of the OER Technical Assistance Grants, describe the nature of that partnership in this section.

8.2.4 Assessment of Need

Provide a brief overview of significant OER currently available, if any, for the subject matter (e.g., Psychology, History, etc.) of each course.

FOR DEVELOPMENT GRANTS ONLY: Provide a rationale for why available OER does not meet the needs of the course(s) and describe OER that will be created.

Describe how the proposed project meets the requirements for priority points (see Section 7.2), if applicable.

8.3. PROJECT WORK PLAN OR TIMELINE (FORM 3)

Project Work Plan must include the Project Goal Statement, objectives, activities, and outcomes. Generally, each objective would be supported by one or more activity, process, or deliverable. If the Applicant is selected for an Award, it is expected that the Project Work Plan will be more fully developed and expanded over the course of the grant period, in conjunction with project reporting and verification requirements.

8.3.1 Project Goal Statement

The Project Goal Statement shall identify the ultimate outcome of the project.

8.3.2 Major Project Objectives and Expected Outcomes

Major Project Objectives measure the progress toward the project goal. Objectives must be specific and measurable. Applicants must include at least three (3) project objectives and expected outcomes that support achievement of the project goal identified in Section 8.3.1

The expected outcomes must be clearly articulated, relate to the objectives, and include appropriate measures for assessment of those objectives.

8.4. PROJECT EVALUATION

Project evaluation is incorporated into the Project Work Plan. 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. Section 10 provides detail on grant reporting requirements.

The THECB may conduct an evaluation to assess the statewide effectiveness of the program/project.

8.5. BUDGET (FORM 4)

Development Grants:

Include a summary project budget including a description of the local matching commitment. Award funds may be used for instructional design, project management, faculty summer salaries, digital media production, or other costs directly related to content development.

Cross-institutional collaboration is required for Development Grants. Any funds that will be designated for institutional collaborators and matching funds provided by institutional collaborators must be described in detail in the Budget.

In addition to addressing the overall requirement in Section 3.2, an Applicant that proposes substantive inclusion of undergraduate students in the development of OER for the proposed course(s) may request an additional 10% in funding. The plan for undergraduate student inclusion must be described in detail in the Project Summary (See Section 8.2.2) and the 10% in additional funding requested in the Budget.

Implementation Grants:

Include a summary budget including a description of the local matching commitment. Award funds may be used for instructional design, project management, faculty summer salaries, or other costs directly related to course design.

For Both Categories of Grants:

Institutional matching (1:1) is required in both categories and may include in-kind contributions for instructional designers or project managers but may not include administrative overhead.

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

8.6. 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.**

8.7. EVIDENCE OF LEADERSHIP COMMITMENT

Provide documentation as evidence of commitment to cross-institutional collaboration, if applicable (required for Development Grants). Such documentation must be in the form of Letters of Commitment from Applicant's senior management and from the senior management of Applicant partner(s).

8.8. ATTACHMENTS

There are no additional required attachments for this Grant Program. Any additional documents attached to the Application will not be considered in the review process.

9. DISTRIBUTION OF AWARD FUNDS

9.1 ISSUANCE OF GRANT AWARD

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

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

9.2 "DISCLOSURE OF INTERESTED PARTIES" REQUIREMENT

The THECB may not execute a contract/grant requiring approval of the Board Chair, Vice Chair, and Committee Chair pursuant to Board Rule 1.16, until the non-state Business Entity has presented a certificate disclosing interested parties. For-profit organizations, not-for-profit organizations, and private institutions selected for an award must complete this requirement before a grant award contract can be executed. Further information relating to Disclosure of Interested Parties is provided in Section 11.25 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.

OER Course Development and Implementation Grants are funded by federal GEER funds. The 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 the THECB, as described in Section 9.2. OR until submitted expenditure reports have been approved by the THECB for payment

Payments shall be provided on receipt of grant deliverables. A one-half (50%) payment shall be made upon verification that course materials have been posted to the [OERTX Repository](#) and the first project report submitted and one-half (50%) at the end of the first term in which developed course materials have been used and the second project report is submitted. The total of grant payments will not exceed the amount provided by the grant award.

At the THECB's sole discretion, the second half of grant funding is contingent upon the Awarded Applicant using grant funds appropriately, meeting project benchmarks, and producing expected outcomes.

Awarded Applicants will be required to submit a first request for payment once materials have been posted to the OERTX Repository and a second request for payment once the course has been taught using OER materials for one full term.

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

9.4 LAST DAY OF EXPENDITURES

Not applicable for this RFA. Payment is based on reimbursement

9.5 OVERALLOCATION, MISALLOCATION, NON-COMPLIANCE

By submission of this application, Applicant agrees that If the THECB determines at any time that an Applicant has failed to comply with terms of Grant Award/Agreement (including its Exhibits and any Amendments), THECB's Request for Applications (RFA), or the Grantee's response to the RFA, or applicable provisions of state or federal law, the Grantee may be subject to repayment of federal funds to the state or federal government for any overallocation, misallocation, or unauthorized expenditure.

If THECB determines, in its sole discretion, that Grantee is not meeting the terms and conditions of this Grant Agreement, immediately upon receiving a written notice through certified mail from the THECB to stop work, Grantee shall cease all work, including expenditure of any additional funds to a sub-grantee, under this Grant Agreement. The THECB has the sole discretion to determine that Grantee meets the terms and conditions after a stop work order, and to send through certified mail a written notice to Grantee to resume work under this Grant Agreement.

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 maximum six-month 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 the OER Course Development and Implementation Grant Program prior to the grant end date. Extensions are subject to the availability of appropriated funds and to the eligibility requirements.

If additional funding is available to support the OER Course Development and Implementation Grant Program, the THECB Point of Contact will notify eligible grantees. Additional documentation and/or work may be required.

10. MONITORING AND REPORTING REQUIREMENTS

10.1. MONITORING

The THECB staff shall monitor and oversee the OER Development and Implementation Grant 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 Applicant shall be required to complete the project reports listed in Sections 10.2 and 10.3 for a project funded as a result of this RFA. The 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, the THECB reserves the right to require that grant funds be returned. If a required report is not accepted by THECB, the Awarded Applicant will be required to revise 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 three (3) written project reports as specified by the THECB:

1. Interim Project Report 1 due when OER deliverables are uploaded to [OERTX Repository](#) (no later than December 31, 2021);
2. Interim Project Report 2 due after the first term in which the course is taught using OER (no later than July 1, 2022); and

3. Final Project Report due after the second term in which the course is taught using OER (no later than December 31, 2022). Note that the Final Report is due after the grant period ends.

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

- (a) Course number(s), title(s), and sections(s) that used only OER materials.
- (b) Number of students completing a course using only OER materials under this Grant Program.
- (c) Number of faculty adopting OER materials under this Grant Program.
- (d) Cost savings per student, based on the cost of materials used for the course(s) in the term directly preceding the grant period.
- (e) Narrative status report on the development of the OER Course Development and Implementation Grant project.
- (f) Project Work Plan. The work plan submitted with the Applicant's Application shall be updated and supplemented for each interim report and for the final report.
- (g) Student and faculty satisfaction data. The Applicant institution may be required to collect qualitative data on student and faculty experiences with using OER materials and provide that data to THECB.

In addition, Grantees may be required to submit a post-award interview or survey about their experience with adoption and deployment of OER during the Grant Period.

10.3. FINANCIAL REPORTS

Not required for this RFA.

11. TERMS AND CONDITIONS

11.1 TERMINATION

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

11.1.1 Convenience of the State

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

11.1.2 Termination for Cause

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

terminate to Grantee, and THECB will provide Grantee with an opportunity for consultation with THECB prior to termination during that three (3) business day period.

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

11.1.3 Abandonment or Default

If the Grantee Abandons or Defaults on the Grant Award/Agreement, THECB reserves the right to terminate the Grant Award/Agreement without notice and either re-solicit or re-award the Grant Award/Agreement to the next best responsive and responsible Grant Applicant. The defaulting Grantee will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by THECB based on the seriousness of the default.

11.1.4 Applicable Law and Conforming Amendments

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

11.1.5 Excess Obligations (Non-Appropriation)

The Grant Award/Agreement is subject to termination or cancellation, without penalty to THECB or further liability to THECB beyond the receipt of notice of termination, either in whole or in part, subject to the availability of federal funds.

11.1.6 Effect of Termination

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

11.1.7 Transfer of Duties

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

11.2 AMENDMENT

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

11.3 INDEMNIFICATION

(THIS SECTION DOES NOT APPLY TO STATE AGENCIES, LOCAL GOVERNMENT ENTITIES, OR POLITICAL SUBDIVISIONS OF THE STATE OF TEXAS)

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

11.4 SOVEREIGN IMMUNITY

The Parties stipulate and agree that no provision of, or any part of this Grant Award/Agreement between THECB and Grantee, or any subsequent amendment shall be construed: (1) as a waiver of the doctrine of sovereign immunity or immunity from suit as provided for in the Texas Constitution and the Laws of the State of Texas; (2) to extend liability to THECB beyond such liability provided for in the Texas Constitution and the Laws of the State of Texas; or (3) as a waiver of any immunity provided by the 11th Amendment or any other provision of the United States Constitution or any immunity recognized by the Courts and the laws of the State of Texas and the United States. The State of Texas and THECB do not waive sovereign immunity by entering into this Grant Award/Agreement and specifically retain such immunity and all defenses available to them under the laws of the State of Texas or the common law.

11.5 ASSIGNMENT

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

11.6 DELEGATION OR SUBCONTRACTING

Unless as otherwise provided for in this Grant Award/Agreement, no contractual rights, interest, or obligation shall be delegated or subcontracted by Grantee without prior written

approval of THECB. No delegation or subcontract approved by THECB shall relieve Grantee of any obligation or responsibility under this Grant Award/Agreement. It is the Parties' intent that to the extent subcontracting is approved by THECB, Grantee shall make a good faith effort to subcontract with Historically Underutilized Business(es) (HUB), as defined in Texas Government Code §2161.001(2), during the performance of this Grant Award/Agreement. The goal of the HUB program is to promote full and equal business opportunities for all businesses contracting with the State of Texas.

11.7 RIGHT TO AUDIT AND RECORDS RETENTION

Grantee understands that acceptance of funds under this Grant Award/Agreement, or indirectly through a subcontract under this Grant Award/Agreement, acts as acceptance of the authority of the State Auditor's office, THECB or any successor agency, as well as any external auditors selected by the State Auditor's office, THECB or, in agreements involving federal funds, any auditors selected by the United States, including, but not limited to the cognizant federal agencies and/or federal Offices of the Inspector General (collectively referred to as "Audit Entities"), to conduct an audit or investigation in connection with those funds. Grantee further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including promptly providing all records requested. Grantee will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Grantee and the requirements to cooperate is included in any subcontract it awards.

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

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

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

11.8 TIME AND EFFORT RECORDKEEPING

For those personnel whose salaries are prorated between or among different funding sources, time and effort records will be maintained by Awarded Applicant that confirm the project work provided within each funding source. Awarded Applicant must adjust payroll

records and expenditures based on this documentation. This requirement applies to all projects, regardless of funding sources, unless otherwise specified.

11.9 UNIFORM GRANT MANAGEMENT STANDARDS (UGMS)

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

11.10 FORMS, ASSURANCES, AND REPORTS

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

11.11 SITE VISITS

Throughout the Grant Period, the THECB and/or its representatives shall have the right to make site visits or virtual site visits to review the OER Course Development and Implementation Grant Program operations and accomplishments.

11.12 SUPPLANTING PROHIBITION

Supplanting occurs when GEER funds are used to replace other state, local, or federal funds that had previously supported an activity or purpose. Funding provided under this agreement shall supplement (increase the level of services) and not supplant (take the place of) state, local, and other federal funds. Awardees may not use any GEER funds for any project costs for which other local, state, or federal funds have already been awarded, appropriated, or received.

11.13 CARRYOVER OF FUNDS

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

11.14 APPLICABLE CONDITIONS AND UNIFORM ASSURANCES

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

11.15 STATE AUDITOR'S RIGHT TO AUDIT

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

state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

11.16 CHILD SUPPORT OBLIGATION FAMILY CODE (IF APPLICABLE)

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

11.17 DISPUTE RESOLUTION

If THECB determines that any work product is not acceptable, THECB shall notify Grantee of the specific deficiencies in writing. Grantee shall then undertake all steps necessary to correct any deficiencies at no additional cost to THECB. In the event any issues cannot be resolved, the dispute resolution process provided for in Texas Government Code, Chapter 2260 shall be used by THECB and Grantee to attempt to resolve any claim for breach of Contract. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the Grant Award/Agreement.

11.18 PUBLIC DISCLOSURE

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

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

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

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

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

11.19 CONFIDENTIALITY, PUBLIC INFORMATION ACT, AND FERPA

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

11.19.1 Public Information Act

THECB will make a determination whether to submit a Public Information Act request to the Attorney General. This Grant Award/Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. Grantee will notify THECB's contact within 24 hours of receipt of any third-party requests for information it receives relating to this Grant Award/Agreement. In accordance with Section 2252.907 of the Texas Government Code, Grantee is required to make any information created or exchanged with the State pursuant to this Grant Award/Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State and shall cooperate with THECB in doing so. Grantee agrees to maintain the confidentiality of information received from THECB and the State of Texas during the performance of this Grant Award/Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Grantee will not disclose any information to which it is privy under this Grant Award/Agreement without the prior written consent of THECB. Grantee will indemnify and hold harmless the State of Texas, its officers and employees, and THECB, its officers and employees for any claims for damages that arise from the disclosure by Grantee of information also held by the State of Texas or THECB to which Grantee is privy under this Grant Award/Agreement.

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

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

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

11.19.2 FERPA

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

11.19.3 Protection of Confidential Data (Covered Data and Information)

Grantee agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in the Family Educational Rights and

Privacy Act (34 CFR § 99.33 (a)(2)) and with the terms set forth in Section 11, TERMS and CONDITIONS. 34 CFR 99.33 (a)(2) states that the officers, employees, and agents of a party that receive education record information from THECB may use the information, but only for the purposes for which the disclosure was made.

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

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

11.19.5 Prohibition on Unauthorized Use or Disclosure of CDI

Grantee agrees to hold CDI in strict confidence. Grantee shall not use or disclose CDI received from or on behalf of THECB except as permitted or required by the Grant Award/Agreement, as required by law, or as otherwise authorized in writing by THECB. Grantee agrees not to use CDI for any purpose other than the purpose for which the disclosure was made.

11.19.6 Return or Destruction of CDI

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

11.19.7 Breach

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

11.19.8 Maintenance of the Security of Electronic Information

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

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

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

11.20 INFRINGEMENTS

(THIS SECTION DOES NOT APPLY TO STATE AGENCIES, LOCAL GOVERNMENT ENTITIES, OR POLITICAL SUBDIVISIONS OF THE STATE OF TEXAS)

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

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

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

11.21 OWNERSHIP/WORK MADE FOR HIRE

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

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

Code) for any license to use any or all copyrights purchased with Grant funds or in any work developed under the Grant.

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

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

11.22 GOVERNING LAW AND VENUE

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

11.23 ADDITIONAL GRANTEE RESPONSIBILITIES

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

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

necessary equipment, facilities and workers to perform Grantee's obligations under this Grant Award/Agreement.

11.24 CONFLICT OF INTEREST

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

11.25 DISCLOSURE OF INTERESTED PARTIES

The THECB may not execute a contract/grant requiring approval of the Board Chair, Vice Chair, and Committee Chair until the Business Entity has presented a certificate disclosing interested parties. "Business Entity" is defined as an entity (other than a governmental entity or state agency) through which business is conducted, regardless of whether the entity is for-profit or nonprofit. The Texas Ethics Commission (TEC) has an online portal for vendors/grantees. Vendors/Grantees will need to create a username and password to complete the "Certificate of Interested Parties" form. After the form has been completed, print and sign before sending a final copy to the THECB at Contracts@THECB.state.tx.us. The TEC portal link can be found at: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

11.26 FINANCIAL INTERESTS AND GIFTS

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

11.27 ANTITRUST

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

11.28 EQUAL OPPORTUNITY

Grantee represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, religion, sex, age, disability, or genetic information in the performance of this Grant Award/Agreement.

11.29 INDEPENDENT CONTRACTOR

Grantee shall be an independent contractor in all matters relating to this Grant Award/Agreement. Grantee and its employees, agents, and subcontractors shall not be

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

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

11.30 ELIGIBILITY/AUTHORIZATION TO WORK IN THE UNITED STATES

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

11.31 TAXES/ WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE – INCLUDING INDEMNITY

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

GRANTEE AGREES TO INDEMNIFY AND HOLD HARMLESS THECB, THE STATE OF TEXAS AND THEIR OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES AND DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS'

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

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

11.32 PROHIBITION ON USE OF FUNDS FOR LOBBYING

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

11.33 BUY TEXAS

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

11.34 PROVISION OF SERVICES

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

11.35 FORCE MAJEURE

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

11.36 NOTICE

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

Method of Notice. All notices must be given (i) by personal delivery, (ii) by an express courier (with confirmation), (iii) mailed by registered or certified mail (return receipt requested), (iv) facsimile, or (v) electronic mail to the parties at the address specified in

this Grant Award/Agreement, or to the address that a party has notified to be that party's address for the purposes of this section.

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

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

11.37 FALSE STATEMENTS AND BREACH OF REPRESENTATIONS

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

11.38 SEVERABILITY AND WAIVER

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

Each and every right granted to the Parties hereunder or under any other document delivered hereunder or in connection herewith, or allowed them by law or equity, shall be cumulative and may be exercised from time to time. Failure by THECB or Grantee at any time to require strict performance of any contractual provision or obligation contained herein shall not constitute a waiver or diminish the rights of either party thereafter to demand strict compliance. Neither THECB's review, approval, acceptance of, nor payment for any of the Services provided in this Grant Award/Agreement shall be construed to operate as a waiver of any rights under the Grant Award/Agreement, or of any cause of action arising out of the performance of the Services required by the Grant Award/Agreement.

11.39 HUMAN TRAFFICKING PROHIBITION

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

11.40 FOREIGN TERRORIST ORGANIZATIONS

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

11.41 SYSTEM FOR AWARD MANAGEMENT

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

Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

11.42 NOTIFICATION OF CONTRACT

(Only applies to Employees of a Texas state agency or any institution of higher education.)

THECB will send notification to the key personnel's employer, if the personnel are otherwise employed outside of their contracted work with THECB.

11.43 INSURANCE – NOT APPLICABLE AND INTENTIONALLY OMITTED

11.44 KEY PERSONNEL

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

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

11.45 DEBTS AND DELINQUENCIES TO THE STATE

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

11.46 DECEPTIVE TRADE PRACTICES; UNFAIR BUSINESS PRACTICES

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

11.47 SUSPENSION AND DEBARMENT

Grantee certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred

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

11.48 EXCLUDED PARTIES

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

11.49 E-VERIFY

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

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

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

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

11.50 DRUG FREE WORK PLACE

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

11.51 NO COMMISSIONS

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

11.52 APPLICABLE TAXES

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

11.53 ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS

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

Grantee shall provide Department of Information Resources (DIR) with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Grantees not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

11.54 SMOKING POLICY

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

11.55 SUBSTITUTIONS

Substitutions are not permitted without the written approval of THECB.

11.56 CONTRACTING INFORMATION RESPONSIBILITIES

(APPLICABLE FOR CONTRACTS \$1 MILLION AND ABOVE)

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

11.57 CYBERSECURITY TRAINING

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

11.58 DISASTER RECOVERY PLAN

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

11.59 ABORTION

Respondent represents and warrants that the contract is not a taxpayer resource transaction prohibited by Section 2272.003 of the Texas Government Code and that payments made by Agency to Respondent and Respondent's receipt of appropriated funds under the contract are not prohibited by Article IX, Section 6.25 of the General Appropriations Act.

11.60 LEGAL AND REGULATORY ACTION

Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings, investigations, etc. pending or threatened against Respondent or any of the individuals or entities included in the response within the five (5) calendar years immediately preceding the submission of the response that would or could impair Respondent's performance under the contract, relate to the

solicited or similar goods or services, or otherwise be relevant to the Agency's consideration of the response. If Respondent is unable to make the preceding representation or warranty, then Respondent instead represents and warrants that it has included as a detailed attachment in its response a complete disclosure of any such court or governmental agency actions, proceedings, or investigations, etc. that would or could impair Respondent's performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to the Agency's consideration of the response. In addition, Respondent represents and warrants that it shall notify the Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to timely update Agency shall constitute breach of contract and may result in immediate termination of the contract.

11.61 LIMITATIONS ON AUTHORITY

Respondent shall have no authority to act for on behalf of Agency or the State of Texas except as expressly provided for in the contract; no other authority, power, or use is granted or implied. Respondent may not incur any debt, obligation, expense, or liability on behalf of Agency or the State of Texas.

11.62 NO THIRD PARTY BENEFICIARIES

This contract is made solely and specifically among and for the benefit of the parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the contract as a third party beneficiary or otherwise.

11.63 REFUND

Respondent will promptly refund or credit within thirty (30) calendar days any funds erroneously paid by Agency which are not expressly authorized under this contract.

11.64 ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

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

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

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

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

12. GOVERNOR'S EMERGENCY EDUCATION RELIEF FUND: OTHER ASSURANCES AND CERTIFICATIONS

In addition to the requirements found in existing statute, regulation, and the funding announcement, this program requires applicant organizations to certify compliance with the following:

12.01 Constitutional Compliance

Applicant assures that it will not engage in any activity that violates Constitutional law including profiling based upon race.

12.02 Information Systems

Applicant assures that any new criminal justice information systems will comply with data sharing standards for the Global Justice XML Data Model and the National Information Exchange Model.

12.03 Criminal History Reporting

Entities receiving funds from PSO must be located in a county that has an average of 90% or above on both adult and juvenile dispositions entered into the computerized criminal history database maintained by the Texas Department of Public Safety (DPS) as directed in the Texas Code of Criminal Procedure, Chapter 66. The disposition completeness percentage is defined as the percentage of arrest charges a county reports to DPS for which a disposition has been subsequently reported and entered into the computerized criminal history system.

Beginning January 1, 2020, counties applying for grant awards from the Office of the Governor must commit that the county will report at least 90 percent of convictions within seven business days to the Criminal Justice Information System at the Department of Public Safety. By January 1, 2021, such reporting must take place within five business days.

12.04 Uniform Crime Reporting (UCR)

Eligible applicants operating a law enforcement agency must be current on reporting Part I violent crime data to the Texas Department of Public Safety (DPS) for inclusion in the annual Uniform Crime Report (UCR). To be considered eligible for funding, applicants must have submitted a full twelve months of accurate data to DPS for the most recent calendar year.

12.05 Conversion to National Incident-Based Reporting System (NIBRS)

The Texas Department of Public Safety (DPS) has established a goal set by the Texas Legislature for all local law enforcement agencies to implement and report crime statistics data by using the requirements of the National Incident-Based Reporting System (NIBRS). Additionally, the Federal Bureau of Investigations (FBI) will collect required crime statistics solely through the NIBRS starting January 1, 2021. Due to this federal deadline, grantees are advised that eligibility for future grant funding may be tied to compliance with NIBRS. Financial grant assistance for transitioning to NIBRS may be available for your jurisdiction from the Public Safety Office.

12.06 Compliance with State and Federal Laws, Programs and Procedures

Local units of government, including cities, counties and other general purpose political subdivisions, as appropriate, and institutions of higher education that operate a law enforcement agency, must comply with all aspects of the programs and procedures utilized by the U.S. Department of Homeland Security ("DHS") to: (1) notify DHS of all information requested by DHS related to illegal aliens in Agency's custody; and (2)

detain such illegal aliens in accordance with requests by DHS. Additionally, counties and municipalities may NOT have in effect, purport to have in effect, or make themselves subject to or bound by, any law, rule, policy, or practice (written or unwritten) that would: (1) require or authorize the public disclosure of federal law enforcement information in order to conceal, harbor, or shield from detection fugitives from justice or aliens illegally in the United States; or (2) impede federal officers from exercising authority under 8 U.S.C. § 1226(a), § 1226(c), § 1231(a), § 1357(a), § 1366(1), or § 1366(3). Lastly, eligible applicants must comply with all provisions, policies, and penalties found in Chapter 752, Subchapter C of the Texas Government Code.

Each local unit of government, and institution of higher education that operates a law enforcement agency, must download, complete and then upload into eGrants the CEO/Law Enforcement Certifications and Assurances Form certifying compliance with federal and state immigration enforcement requirements. This Form is required for each application submitted to OOG and is active until August 31, 2021 or the end of the grant period, whichever is later.

13. FEDERAL CERTIFICATIONS

Attached hereto and incorporated herein by reference are the General Provisions and the Special Provisions listed below:

1. Certification Regarding Lobbying Disclosure of Lobbying Activities (Appendix F)
2. Certification Federal Funding Accountability and Transparency Act (FFATA) (Appendix G)
3. Certification Regarding Debarment and Suspension (Appendix H)

Grantee further certifies the following:

Grantee must make full disclosure to THECB prior to entering into this Agreement if it intends to subcontract with a former employee/retiree of THECB if such former employee/retiree will participate in the Project in any way. Any former employee/retiree selected by the Grantee for subcontracting shall not perform work on the Project until prior written approval is received from THECB.

Pursuant to Section 2155.006(b) of the Texas Government Code, Grantee certifies that it has not been, during the five-year period preceding the date of this Agreement: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

Please scan and email a signed copy of the Certification Regarding Lobbying and Disclosure Form (Appendix F) and the FFATA Certification (Appendix G) to OER@highered.texas.gov. You should retain the Certification Regarding Debarment and Suspension (Appendix H).

APPENDIX A: RFA DEFINITIONS

The following definitions shall apply:

1. **Applicant** – An eligible public or independent institution of higher education, 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. **Federal Awards/Federal Grants** - Federal awards are federal financial assistance through federal contracts, sub-contracts, grants, and sub-grants. A federal grant is an award of financial assistance from a Federal agency to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States.
5. **NOGA** – 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”, “Contract”, and “Grant” are used interchangeably.
6. **Open Educational Resource** - a teaching, learning, or research resource that is in the public domain or has been released under an intellectual property license that permits the free use, adaptation, and redistribution of the resource by any person. The term may include full course curricula, course materials, modules, textbooks, media, assessments, software, and any other tools, materials, or techniques, whether digital or otherwise, used to support access to knowledge (TEC, Section 51.451).
7. **State Fiscal Year** – The period of time beginning September 1 and ending on the following August 31, both dates inclusive.
8. **State of Texas Business Days** – Monday through Friday, 8:00 a.m. to 5:00 PM CT/CDT, except for scheduled state of Texas and national holidays.
9. **THECB** – The Texas Higher Education Coordinating Board, an agency of the State of Texas.

APPENDIX B: CALENDAR OF EVENTS

October 2020	Request for Applications Published
November 17, 2020	Application Deadline Round 1
December 11, 2020	THECB Anticipates Announcing Grant Awards Round 1
December 15, 2020	Application Deadline Round 2
January 26, 2020	THECB Anticipates Announcing Grant Awards Round 2
January 11, 2020	Application Deadline Round 3
February 19, 2020	THECB Anticipates Announcing Grant Awards Round 3
Upon execution of NOGA	Grant Period Begins
No later than December 31, 2021	First Project Report and Interim Expenditure Report is Due to THECB
No later than July 1, 2022	Second Project Report and Interim Expenditure Report is Due to THECB
August 31, 2022	Grant Period Ends - Last Day to Expend Grant Funds
No later than December 31, 2022	Final Financial Report and Unexpended Grant Funds Due to THECB

APPENDIX C: APPLICATION EVALUATION FORM

OER Course Development and Implementation Grant Program Evaluation Form	Proposal #	Reviewer #
<i>Proposal Scoring</i>	Max. Points	Actual Points
Project design <ul style="list-style-type: none"> • The project is well defined and grounded in principles of effective instructional design. [10] • The project can be completed within the Grant Period, exclusive of teaching requirements. [5] • The proposed project is realistic and appropriate to the goals identified by the Applicant. [10] • The proposed activities and strategies are appropriate and are described in sufficient detail. [10] • Project activities would likely continue after the Grant Period ends. [5] 	40	
Project goals <ul style="list-style-type: none"> • Project goals align with the overall goals of the RFA to develop or implement courses for online delivery that use only open educational resources (OER). [5] • The course materials proposed are of sufficient quality to enhance course curricula, including student learning outcomes/objectives aligned to the OER as well as to assessments. [15] • The course materials are provided to the student at no cost, other than the cost of printing. [10] 	30	

OER Course Development and Implementation Grant Program

<i>Proposal Scoring</i>	Max. Points	Actual Points
Evaluation and expected outcomes <ul style="list-style-type: none"> • The proposed project evaluation for determining the success of the project is described in sufficient detail and includes relevant information/data to be collected. [10] • The expected outcomes are achievable using the resources and plans the Applicant submits. [10] • The expected outcomes would make a significant impact on reducing the cost of educational resources in the course(s). [20] • There are sufficient staffing and resources to ensure that project evaluation information/data will be properly collected and reported. [10] 	50	
Priority Project as Defined in 7.2 Course is a most frequently transferred Texas Core Curriculum Course Course is a Workforce Education Course Manual Course leading to a high-value credential that corresponds to a high need occupation	5 5	
TOTAL POINTS	130	

APPENDIX D: CHECKLIST OF REQUIRED FORMS AND ATTACHMENTS

Required Information (RFA Section)	Application Form / Attachment
CERTIFICATION OF APPLICATION INFORMATION (8.1)	Form 1 – Certification
PROJECT NARRATIVE (8.2)	Form 2 – Project Narrative
PROJECT WORK PLAN (8.3)	Form 3 – Project Work Plan
PROJECT BUDGET (8.5)	Form 4 – Project Budget
FINANCIAL VIABILITY (8.6)	Attachment(s) – if applicable
EVIDENCE OF LEADERSHIP COMMITMENT (8.7)	Attachment(s) – if applicable
Certification Regarding Lobbying and Disclosure Form	Appendix F
Federal Funding Accountability and Transparency Act (FFATA) Certification	Appendix G

Application forms may be found at www.highered.texas.gov/oerGEER.

APPENDIX E: SAMPLE NOTICE OF GRANT AWARD

Texas Higher Education
Coordinating Board

THECB Award Number:

Federal Fiscal Year:

{bmsReference}

{fiscalyear}

Notice of Federal Grant Award to {contracted_party}

Grantee's Name and Address:

{contracted_party}

{contractedPartyAddress}

{contractedPartyCity}, {contractedPartyState}

{contractedPartyZip}

Federal Grant Title:

OER Course Development and Implementation Grant Program

CFDA: 84.425C

Federal Grant Award Number:

{fedAwardno}

Amount of Award:

\$ {total_\$}

Term of Grant: Upon execution to August 31, 2022

Federal Grant Funding Agency:

U.S. Department of Education

Research and Development Award: No

DUNS Number: {dUNS}

Payment Method:

Reimbursement

Congressional District Location: {congrDistrLoc}

Congressional District Place of

Performance: {congrDistrPerf}

Authority: Governor's Emergency Education Relief (GEER) Fund. GEER dollars, in turn, originate from the U.S. Department of Education's administration of the Education Stabilization Fund in the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020. The CARES Act (HR 748/S 3548 of the 116th Congress) was signed into law on March 27, 2020.

The Texas Higher Education Coordinating Board's ("THECB") and the Grantee's (collectively, referred to as "the parties") execution of this Notice of Grant Award creates a legally binding agreement between the parties. The Program requirements (e.g., objectives, scope, budget, methodology) as stated in (1) the original Request for Application (RFA) including any addenda issued, (2) the 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.

Insert here any additional changes made to Application or RFA - e.g., if payment schedule has changed based on a revised budget

OER Course Development and Implementation Grant Program

Any changes in the approved Grant must follow THECB's amendment process as defined in the RFA. Any funds received by Grantee and not expended prior to the end of the grant term indicated above shall be returned to THECB within thirty (30) days unless otherwise agreed by THECB and Grantee.

Approving THECB Official:	Approving Grantee Official:
{signContact} {signContacttitle}	{signed_by2} {signed_bytitle}
Date:	Date:

APPENDIX F: CERTIFICATION REGARDING LOBBYING AND DISCLOSURE FORM

CERTIFICATION REGARDING LOBBYING AND DISCLOSURE FORM

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(Please check one or two of the following that pertain to your institution.)

The undersigned certifies, to the best of his or her knowledge and belief, that:

☐ No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

☐ If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

If box 2 is checked, the completion of "Disclosure of Lobbying Activities" form-LLL is required.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. **Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.**

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certification.

Name of Organization: _____

Address: _____

City: _____ State: _____ Zip Code: _____

(Date)

(Signature of Authorized Official)

(Title of Authorized Official)

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract _____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: a. bid/offer/application _____ b. initial award c. post-award	3. Report Type: a. initial filing _____ b. material change For material change only: Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: _____ Prime _____ Subawardee Tier _____, if Known: Congressional District, if known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

Federal Agency Form Instructions - Disclosure of Lobbying Activities

Form Identifiers	Information
Agency Owner	Grants.gov
Form Name	Disclosure of Lobbying Activities (SF-LLL)
Form Version Number	1.2
OMB Number	4040-0013
OMB Expiration Date	02/28/2022

Form Field Instructions

Field Number	Field Name	Required or Optional	Information
1.	*Type of Federal Action:	Required	Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action. This field is required.
2.	*Status of Federal Action	Required	Identify the status of the covered Federal action. This field is required.
2-a.	a. Bid/Offer/Application	Check if applicable	Click if the Status of Federal Action is a bid, an offer or an application.
2-b.	b. Initial Award	Check if applicable	Click if the Status of Federal Action is an initial award.
2-c.	c. Post-Award	Check if applicable	Click if the Status of Federal Action is a post-award.
3.0	*Report Type	Required	Identify the appropriate classification of this report.
3-a.	a. Initial filing	Check if applicable	Check if Initial filing.
3-b.	b. Material change	Check if applicable	If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the previously submitted report by this reporting entity for this covered Federal action. This field is required.

OER Course Development and Implementation Grant Program

Field Number	Field Name	Required or Optional	Information
	Material Change Year	Conditionally Required	If this is a follow up report caused by a material change to the information previously reported, enter the year in which the change occurred.
	Material Change Quarter	Conditionally Required	If this is a follow up report caused by a material change to the information previously reported, enter the quarter in which the change occurred.
	Material Change Date of Last Report	Conditionally Required	Enter the date of the previously submitted report by this reporting entity for this covered Federal action.
4.	Name and Address of Reporting Entity	Required	Provide the information for Name and Address of Reporting Entity.
	Prime	Check if applicable	Click to designate the organization filing the report as the Prime Federal recipient.
	Subawardee	Check if applicable	Click to designate the organization filing the report as the SubAwardee Federal recipient. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
	Tier if known:	Optional	Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier.
	Name	Required	Enter the name of reporting entity. This field is required
	Street 1	Required	Enter Street 1 of the reporting entity. This field is required.
	Street 2	Optional	Enter Street 2 of the reporting entity.
	City	Required	Enter City of the reporting entity This field is required.
	State	Required	Enter the state of the reporting entity. This field is required
	ZIP	Required	Enter the ZIP of the reporting entity. This field is required

Field Number	Field Name	Required or Optional	Information
	Congressional District, if known	Optional	Enter the primary Congressional District of the reporting entity. Enter in the following format: 2 character state abbreviation – 3 characters district number, e.g., CA-005 for California 5 th district, CA-012 for California 12 th district, NC-103 for North Carolina's 103 rd district.
5.	If Reporting Entity in No. 4 is Subaward, Enter Name and Address of Prime	Conditionally Required	If Reporting Entity in No. 4 is Subaward, provide the information for the Name and Address of Prime
	Name	Required	If the organization filing the report in item 4, checks "Subawardee", enter the full name of the prime Federal recipient.
	Street 1	Required	If the organization filing the report in item 4, checks "Subawardee", enter the address of the prime Federal recipient.
	Street 2	Optional	If the organization filing the report in item 4, checks "Subawardee", enter the address of the prime Federal recipient.
	City	Required	If the organization filing the report in item 4, checks "Subawardee", enter the city of the prime Federal recipient.
	State	Required	If the organization filing the report in item 4, checks "Subawardee", select the appropriate state from this pull down menu.
	ZIP	Required	Enter the ZIP of Prime. This field is required
	Congressional District, if known	Optional	Enter the Congressional District of Prime. Enter in the following format: 2 character state abbreviation – 3 characters district number, e.g., CA-005 for California 5 th district, CA-012 for California 12 th district, NC-103 for North Carolina's 103 rd district.

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Field Number	Field Name	Required or Optional	Information
6.	Federal Department/Agency	Required	Enter the name of the Federal Department or Agency making the award or loan commitment. This field is required.
7.	CFDA Number:	Required	Enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments. Pre-populated from SF-424 if using Grants.gov.
	CFDA Title:	Required	Enter the Federal program name or description for the covered Federal action. Pre-populated from SF-424 if using Grants.gov.
8.	Federal Action Number	Optional	Enter the most appropriate Federal identifying number available for the Federal action, identified in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".
9.	Award Amount	Optional	For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment of the prime entity identified in item 4 or 5.

Field Number	Field Name	Required or Optional	Information
10.a.	Name And Address of Lobbying Registrant	Required	Provide the information for the Name and Address of Lobbying Registrant.
	Prefix	Optional	Enter the prefix (e.g., Mr., Mrs., Miss), if appropriate, for the Lobbying Registrant.
	First Name	Required	Enter the first name of Lobbying Registrant. This field is required.
	Middle Name	Optional	Enter the middle name of Lobbying Registrant.
	Last Name	Required	Enter the last name of Lobbying Registrant. This field is required.
	Suffix	Optional	Enter the suffix (e.g., Jr. Sr., PhD), if appropriate, for the Lobbying Registrant.
	Street 1	Required	Enter the first line of street address for the Lobbying Registrant.
	Street 2	Optional	Enter the second line of street address for the Lobbying Registrant.
	City	Required	Enter the city of the Lobbying Registrant.
	State	Required	Select the appropriate state of the Lobbying Registrant.
	ZIP Code	Required	Enter the Zip Code (or ZIP+4) of the Lobbying Registrant.
10.b.	Individual Performing Services	Required	Provide the information for Individual Performing Services
	Prefix	Optional	Enter the prefix (e.g., Mr., Mrs., Miss), if appropriate, for the Individual Performing Services.
	First Name	Required	Enter the first name of the Individual Performing Services. This field is required.
	Middle Name	Optional	Enter the middle name of the Individual Performing Services.
	Last Name	Required	Enter the last name of the Individual Performing Services. This field is required.

Field Number	Field Name	Required or Optional	Information
	Suffix	Optional	Enter the suffix (e.g., Jr. Sr., PhD), if appropriate, for the Individual Performing Services.
	Street 1	Required	Enter the first line of street address for the Individual Performing Services.
	Street 2	Optional	Enter the second line of street address for the Individual Performing Services.
	City	Required	Enter the city of the Individual Performing Services.
	State	Required	Select the state for the address of the Individual Performing Services from this pull down menu.
	ZIP Code	Required	Enter the Zip Code (or ZIP+4) of the Individual Performing Services.
11.	Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	N/A	N/A
	Signature:	Required	Completed by Grants.gov upon submission.
	Name:	Required	Provide the information for the Name of the Certifying Official.

OER Course Development and Implementation Grant Program

Field Number	Field Name	Required or Optional	Information
	Prefix	Optional	Enter the prefix (e.g., Mr., Mrs., Miss), if appropriate, for the Certifying Official.
	First Name	Required	Enter the first name of Certifying Official. This field is required.
	Middle Name	Optional	Enter the middle name of the Certifying Official.
	Last Name	Required	Enter the last name of the Certifying Official. This field is required.
	Suffix	Optional	Enter the suffix (e.g., Jr. Sr., PhD), if appropriate, for the Certifying Official.
	Title:	Optional	Enter the title of the Certifying Official.
	Telephone No.:	Optional	Enter the telephone number of the certifying official.
	Date:	Required	Completed by Grants.gov upon submission.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

OMB Number: 4040-0013 7
OMB Expiration Date: 02/28/2022

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

APPENDIX G: Federal Funding Accountability and Transparency Act (FFATA) Certification

A. Certification Regarding Percent (%) of Annual Gross from Federal Awards:

Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year?

- ☐ Yes If yes, continue to question B.
☐ No If no, questionnaire is complete. Please sign section E. Thank you!

B. Certification Regarding Amount of Annual Gross from Federal Awards:

Did your organization receive \$25 million or more in annual gross revenues from federal awards in the preceding fiscal year?

- ☐ Yes If yes, continue to question C.
☐ No If no, questionnaire is complete. Please sign section E. Thank you!

C. Certification Regarding Public Access to Compensation Information.

Does the public have access to information about the highly compensated officers/senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

- ☐ Yes If yes, questionnaire is complete. Please sign section E. Thank you!
☐ No If yes, continue to question D.

D. Top Executive Disclosure Requirements: Provide the names and total compensation of the top five most highly compensated officers/senior executives for the preceding fiscal year below. Please see 2 CFR Pt. 170, including its Appendix A for guidance. After completing Section D, please sign section E. Thank you!

	Name of Executive	Annual Compensation
1.		\$
2.		\$
3.		\$
4.		\$
5.		\$

E. Signatures:

As the duly authorized representative (Signor) of the Contractor/Grantee, I hereby represent and warrant that the statements made by me in this certification form are true, complete, and correct to the best of my knowledge and are consistent with FFATA (31 USC § 6101 note), as amended, and its implementing regulations including 2 CFR Part 170. I further represent and warrant that I will provide THECB with any and all information which may be further needed for THECB to accurately report to the federal government pursuant to FFATA.

Signature:	
Printed Name:	
Title:	
DUNS Number:	
City in which services will be performed:	
State in which services will be performed:	
Zip Code in which services will be performed:	

APPENDIX H: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

TEXAS HIGHER EDUCATION COORDINATING BOARD

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

"Non-Federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities" (2 CFR 200.214).

This certification is required by the United States Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, for all lower-tier transactions meeting the threshold and tier requirements (2 CFR 3485.220, 2 CFR 3485.330).

1. By signing this contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the Texas Higher Education Coordinating Board ("THECB") if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact THECB for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by signing this contract, should the proposed covered transaction be entered into, that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by signing this contract that it will include a clause titled: "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," stating the Certification listed below without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant

is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower-Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of its Proposal/Application and/or by signature on any resulting Agreement/Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.
- (3) The prospective lower tier participant certifies that it will comply with the requirements of 2 CFR part 180, subpart C, as adopted at 2 CFR 3485.12 (2 CFR 3485.330).

Terms Defined: As used in these Provisions and Assurances

- *Nonprocurement Transaction*: Any transaction, regardless of type (except procurement contracts), including, but not limited to the following: grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurances, payments for specified uses, and donation agreements. A non-procurement transaction at any tier does not require the transfer of Federal funds. (2 CFR 180.970).
- *Participant*: Any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant (2 CFR 180.980).
- *Principal*: An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or a consultant or other person, whether or not employed by the participant or paid with Federal funds, who (1) is in a position to handle Federal funds; (2) is in a position to influence or control the use of those funds; or (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction (2 CFR 180.995).
- *System for Award Management (SAM Exclusions)*: The list maintained and disseminated by the General Services Administration (GSA) containing the names and other information about persons who are ineligible (2 CFR 180.945).
- *Debarment*: Action taken by a debarring official under Subpart H of [Part 180] to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred (2 CFR 180.925).
- *Suspension*: An action taken by a suspending official under subpart G of [Part 180] that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended (2 CFR 180.1015).
- *Ineligible or Ineligibility*: A person or commodity is prohibited from covered transactions because of an exclusion or disqualification (2 CFR 180.960).
- *Person*: Any individual, corporation, partnership, association, unit of government, or legal entity, however organized (2 CFR 180.985).
- *Proposal*: A solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person seeking to participate or to receive a benefit, directly or indirectly, in or under a covered transaction
- *Voluntary Exclusion or Voluntarily Excluded*: A person's agreement to be excluded under the terms of a settlement

between the person and one or more agencies. Voluntary exclusion must have governmentwide effect. Voluntarily Excluded means the status of a person who has agreed to a voluntary exclusion (2 CFR 180.1020).