

TEXAS WORKFORCE INVESTMENT COUNCIL

MEMORANDUM OF UNDERSTANDING AND AGREEMENT REGARDING SUPPORT OF THE TEXAS WORKFORCE INVESTMENT COUNCIL

This Memorandum of Understanding and Agreement, dated and effective as of September 1, 2022 (the “Effective Date”) is made and entered into pursuant to the authority granted in the Interagency Cooperation Act, Chapter 771, Texas Government Code by and between the Office of the Governor (“OOG”) and the Texas Workforce Commission (“TWC”), the Texas Education Agency (“TEA”), the Texas Health and Human Services Commission (“HHSC”) and the Texas Higher Education Coordinating Board (“THECB”), also herein after referred to collectively as “the Parties.”

PURPOSE AND AUTHORITY

WHEREAS OOG is statutorily charged with constituting and overseeing the Texas Workforce Investment Council (“TWIC”); and

WHEREAS the Parties agree that the continued provision of the services performed by TWIC and its staff is required under state and federal law; and

WHEREAS the Parties, as state agencies represented on TWIC, are required by Texas Government Code, Section 2308.065 to provide funds for the support of TWIC in proportion to such agencies’ financial participation in the workforce development system in accordance with the funding formula established by TWIC; and

WHEREAS TWC has all legal authority necessary to administer the various state and federal funding streams associated with administering the TWIC; and

WHEREAS the Parties have determined that their mutual assistance and cooperation will maximize the available resources appropriated for activities of TWIC;

NOW THEREFORE, in consideration of the cited premises, mutual covenants and terms and conditions herein contained the Parties agree to the following:

SECTION 1 – PERIOD OF AGREEMENT

- 1.1 This Agreement shall become effective upon the Effective Date specified above and shall remain in effect until August 31, 2024, unless terminated earlier pursuant to Section 9 of this Agreement.
- 1.2 This Agreement supersedes any prior Memorandum of Understanding and Agreement executed for the same or similar purpose, except that such prior Agreement shall remain in effect for the purpose of satisfying any outstanding financial obligations incurred under that Agreement.
- 1.3 In the event that a written memorandum of understanding and agreement achieving the same purposes as this Agreement for the two (2) year period beginning September 1, 2024 is not jointly executed by all of the Parties to this Agreement prior to August 31, 2024, this Memorandum of Understanding and Agreement shall continue in full force and effect until such time as it may be amended or terminated.

SECTION 2 – CONTRIBUTION BY AGENCIES

- 2.1 TWC and TEA shall provide and pay the salaries and benefits of TWIC staff in accordance with Subsections 2.2, 2.3, and 2.4 of this Agreement.

- 2.2 TWC shall provide, in aggregate, 10 FTEs to TWIC for the period beginning on the effective date of this Agreement and continuing for the duration of this Agreement, and in addition shall contribute operating costs in an amount not to exceed \$202,432.42 annually, which funds shall be utilized by TWC pursuant to Section 4 below. TWC's total annual budget contribution for both FTEs and operating costs shall not exceed \$919,497.00.
- 2.3 Subject to TWC's maximum total annual budget contribution referenced in Section 2.2, TWC shall reimburse OOG for the full amount of the salary and benefits of the Executive Director of TWIC for the period beginning on the effective date of this Agreement and continuing for the duration of this Agreement. OOG will bill TWC for the actual amounts incurred and outstanding on a quarterly basis.
- 2.4 TEA shall provide, in aggregate, 1 FTE to TWIC for the period beginning on the effective date of this Agreement and continuing for the duration of this Agreement, and in addition shall contribute to TWIC operating costs which funds shall be utilized by TWC pursuant to Section 4 below. TEA's total annual budget contribution for both the FTE and operating costs shall not exceed \$68,235.00.
- 2.5 HHSC shall contribute to TWIC operating costs in an amount not to exceed \$51,127.00 annually, which funds shall be utilized by TWC pursuant to Section 4 below.
- 2.6 THECB shall contribute to TWIC operating costs in an amount not to exceed \$18,930.00 annually, which funds shall be matched by non-federal sources as certified by OOG to THECB annually by October 15 and shall be utilized by TWC pursuant to Section 4 below.
- 2.7 OOG and TWIC shall biennially review the contributions set forth in Subsections 2.2, 2.3, 2.4, 2.5 and 2.6, and if they determine after such review that such contributions need adjustment, then they shall propose to the other Parties to this Agreement that all Parties should mutually agree to amend such contributions pursuant to Section 8.
- 2.8 While the Economic Development and Tourism Office within the Office of the Governor (EDT) is a member of TWIC pursuant to Texas Government Code, Section 2308.052, EDT is not obligated to provide FTEs or operating costs under this Agreement. In accordance with Texas Government Code, Sections 2308.051 and 2308.059, EDT shall provide TWIC with administrative support necessary to perform its required functions. Future biennial review of the funding formula and subsequent amendments pursuant to Section 2.7 may result in provision of FTEs and/or operating costs by EDT.
- 2.9 The provision of FTEs to TWIC by TWC and TEA under Subsections 2.2 and 2.4 shall consist of a payroll transfer of current TWIC staff positions and not a transfer of personnel from TWC or TEA to TWIC. The Executive Director of TWIC shall select the current TWIC positions to be subject to the payroll transfer and will initiate subsequent payroll actions as appropriate and within the funding amounts specified in this Agreement.
- 2.10 TWC shall provide the staff of TWIC (collectively referred to herein as "Staff") the necessary administrative services as described in this Agreement.
- 2.11 The Staff shall remain located at OOG and subject to the policies and procedures of OOG.
- 2.12 The Staff provided by TWC and TEA shall be functionally assigned to OOG and subject to the policies and procedures of OOG, and shall remain independent of the providing agency in non-administrative matters. OOG shall possess review and approval authority over the Staff's employment, budget, and expenditures, and will comply with all current state requirements regarding such expenditures. OOG may transfer by mutual agreement such authority to TWC, TEA, HHSC and/or THECB as necessary.

- 2.13 The Parties to this Agreement shall comply with all applicable state and federal statutes, regulations, rules and guidelines.
- 2.14 The Parties to this Agreement shall assign a primary and a back-up contact person to facilitate the implementation of this Agreement and the Parties shall also assign contact person(s) for payroll and administrative questions and reporting as specified in Section 3 of this Agreement. Each party shall notify the other parties in writing of the designated contact persons within ten (10) working days of the effective date of this Agreement.

SECTION 3 – AGREED PERFORMANCE BY TWC, TEA, HHSC and THECB

TWC, TEA, HHSC and THECB at the direction of OOG and in accordance with its policies, shall:

- (a) timely process and fund, as needed, personnel actions for the Staff;
- (b) provide support on human resource matters and personnel payroll actions affecting the Staff, including job postings, merit increases, reclassifications and promotions, in support of OOG under Subsection 5(b) herein;
- (c) provide monthly reports on income and expenses of the Staff with a budget comparison and provide other relevant information to OOG, as requested;
- (d) include expenditures made pursuant to this Agreement in the respective annual financial report of TWC, TEA, HHSC or THECB;
- (e) process and fund payroll and travel expenses of the respective FTEs provided to TWIC under Section 2; and
- (f) administer travel arrangements for the respective FTEs provided to TWIC under Section 2.

SECTION 4 – AGREED PERFORMANCE BY TWC

OOG delegates to TWC and TWC hereby agrees to accept the ministerial duties and obligations as the fiscal agent and host agency for the operating funds contributed for the operation and support of TWIC under Section 2 above. TWC shall hold all such operating funds in a discrete account, and shall develop and implement all budgeting and processing procedures related to such funds in conjunction with the Executive Director of TWIC. In addition, TWC shall:

- (a) pay travel and other direct expenses of TWIC Council members, Staff, and TSSB Board members;
- (b) timely process and fund payment of TWIC or Staff invoices, if all legal requirements pertaining to the payment have been complied with;
- (c) provide technical assistance and program support to the Staff, upon request;
- (d) allow Staff to utilize the services of TWC print shop;
- (e) provide Staff with desktop and server hardware, software licenses, and user training;
- (f) administer procurement for the Staff, except as provided in Subsection (g) below; and
- (g) reimburse OOG at cost for the Staff's use of OOG's photocopier(s) and other equipment dedicated to TWIC as agreed between OOG and TWC to be procured through OOG.

SECTION 5 – AGREED PERFORMANCE BY OOG

OOG agrees to the following performance in accordance with its policies and procedures:

- (a) payment of salary and benefits for the Executive Director of TWIC in accordance with Section 2.3;
- (b) management of Staff personnel actions involving selection, employment, classification, performance review, retention, promotions, merit raises, and other related actions. The Staff shall be merit system exempt and thus shall serve as at-will employees;
- (c) provide electronic mail, network access, network server backup, and maintenance and technical support for Staff information systems; and
- (d) provide to the Staff use of OOG's photocopier(s) and other equipment dedicated to TWIC as agreed between OOG and TWC to be procured through OOG and reimbursed at cost by TWC to OOG.

SECTION 6 – MUTUALLY AGREED PERFORMANCE

The Parties to this Agreement mutually agree to the following performance:

- (a) identify and implement cost efficiency measures for Staff and take other actions to avoid unnecessary duplication of effort;
- (b) after review and recommendation by TWIC chair and OOG, all TWIC contracts shall be approved by TWC; and
- (c) consultation between TWC, TEA, HHSC, THECB and OOG on Staff performance with respect to actual and budgeted expenditures.

SECTION 7 – FTE AND OPERATING COSTS MANAGEMENT

- 7.1 The monetary amounts indicated in Section 2 shall be pro-rated for any partial fiscal year occurring at the beginning or the end of the term of this Agreement.
- 7.2 Where applicable, estimated employee benefits costs are deducted from the total contribution by the agencies prior to determining operating costs.
- 7.3 Salaries paid to FTEs referenced in Section 2 for each fiscal year subsequent to August 31, 2022 shall be automatically adjusted to include any across-the-board salary increase granted to state employees generally by any Act of the Legislature during the Period of Agreement.
- 7.4 Expenditures under this Agreement shall be as authorized by, and in compliance with, the appropriate funding sources as determined by the providing agency. The Parties further agree that TWC, HHSC, TEA and THECB shall be not be responsible for the payment of any costs incurred by TWIC that exceed the funding or staffing requirements established by this Agreement unless otherwise provided by amendment to this Agreement.

SECTION 8 – CHANGES AND AMENDMENTS

- 8.1 Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal or state law or by regulations shall be incorporated into this Agreement without the requirement for any written amendment to this Agreement and shall become effective on the date designated by such law or by regulation.

- 8.2 Except as specifically provided by Subsection 8.1 of this Agreement, any other alterations, additions, or deletions to the terms of this Agreement shall be by modification to this Agreement in writing and executed by all Parties to this Agreement.

SECTION 9 – TERMINATION OF AGREEMENT

- 9.1 Upon mutual agreement of all the Parties to this Agreement, any or all of the conditions or arrangements enacted by this Agreement may be terminated. If a party desires to terminate or modify this Agreement, the moving party shall notify all of the other parties in writing and, within thirty (30) days, the representatives of the Parties shall meet and seek to reach agreement on the proposal.
- 9.2 In the event federal or state laws or regulations should be amended or judicially interpreted to render the continued fulfillment of this Agreement by any party substantially unreasonable or impossible, then the affected parties shall be discharged from any further obligations under this Agreement, except for the equitable settlement of the respective accrued interests or obligations incurred up to the effective date of Agreement close-out.

{Signature Page Follows}

The undersigned parties bind themselves to the faithful performance of this Agreement:

TEXAS WORKFORCE COMMISSION

**Edward
Serna**

Digitally signed by
Edward Serna
Date: 2022.08.29
10:21:12 -0500'

Edward Serna
Executive Director

Date: _____

OFFICE OF THE GOVERNOR



Chief of Staff or designee

8/29/22

Date: _____

TEXAS EDUCATION AGENCY

Carla L. Steffen

Digitally signed by Carla L. Steffen
Date: 2022.08.17 08:31:24 -0500'

Carla Steffen
Chief Financial Officer

Date: _____

**HEALTH AND HUMAN SERVICES
COMMISSION**

DocuSigned by:
Michelle Alletto

74D324454F774EB
Michelle Alletto

Chief Program and Services Officer

Date: August 16, 2022

**TEXAS HIGHER EDUCATION
COORDINATION BOARD**

**Harrison
Keller**

Digitally signed by
Harrison Keller
Date: 2022.08.26
13:52:29 -0500'

Harrison Keller
Commissioner

Date: _____

FY 2023–FY 2024

MOU and Agreement Regarding Support of the Texas Workforce Investment Council Signature Page