



REQUEST FOR APPLICATIONS

RFA No. 781-7-17395

Education Research Center

Designation

2017-2027

APPLICATION DEADLINE:

October 17, 2016

TABLE OF CONTENTS

1	OVERVIEW OF FUNDING OPPORTUNITY	1
1.1	PROGRAM TITLE	1
1.2	SYNOPSIS OF PROGRAM.....	1
1.3	POINT OF CONTACT	1
2	AWARD SUMMARY	1
2.1	AVAILABLE FUNDING	1
2.2	MAXIMUM NUMBER OF AWARDS	1
2.3	SELECTION CRITERIA.....	2
2.4	COST SHARING OR MATCHING REQUIREMENTS.....	2
2.5	PROJECT FUNDING PERIOD	2
2.6	NOTICE OF INTENT DEADLINE: August 31, 2016	2
2.7	QUESTIONS.....	2
2.8	APPLICATION DEADLINE: October 17, 2016, at 4:00 pm Central time.....	2
3	PROGRAM PURPOSE AND AUTHORITY	2
3.1	PURPOSE OF PROGRAM	2
3.2	PROGRAM AUTHORITY	4
4	ELIGIBILITY INFORMATION	4
4.1	ELIGIBLE APPLICANTS	4
4.2	MAXIMUM NUMBER OF SUBMISSIONS BY APPLICANT	4
5	NOTICE OF INTENT GUIDELINES.....	4
5.1	NOTICE OF INTENT IS REQUIRED	4
5.2	NOTICE OF INTENT SUBMISSION.....	5
6	INQUIRIES.....	5
7	APPLICATION SUBMISSION GUIDELINES	6
7.1	SUBMISSION DEADLINE.....	6
7.2	FORMS REQUIRED FOR SUBMISSION	6
7.3	SUBMISSION INSTRUCTIONS	6
8	APPLICATION FORMAT AND CONTENT	7
8.1	APPLICATION FORMAT	7
8.2	COVER FORM	7
8.3	TABLE OF CONTENTS	7
8.4	TRANSMITTAL LETTER	7

8.5	ABSTRACT	8
8.6	NARRATIVE	8
8.7	BUDGET	8
9	TERMS AND CONDITIONS SPECIFIC TO THIS RFA	9
9.1	OWNERSHIP OF WORK	9
9.2	INSPECTIONS	9
9.3	AUDIT AND ACCESS TO RECORDS.....	10
9.4	ADVISORY BOARD.....	10
9.5	DATA WAREHOUSE.....	10
10	SELECTION CRITERIA	11
10.1	DATA SECURITY AND APPLICANT RESOURCES (25 POINTS).....	12
10.2	HIGH QUALITY RESEARCH AGENDA (35 POINTS)	12
10.3	PRIOR EFFORTS (20 POINTS)	12
10.4	QUALITY OF MANAGEMENT TEAM OVERALL QUALIFICATIONS AND EXPERIENCE (20 POINTS).....	12
11	DELIVERABLES.....	12
12	PROVISIONS AND ASSURANCES	13
12.1	COST OF APPLICATION PREPARATION	14
12.2	APPLICATION DELIVERY AND LATE APPLICATIONS	14
12.3	CONFLICT OF INTEREST	14
12.4	MOU	14
12.5	PROPRIETARY INFORMATION	15
12.6	RELEASE OF INFORMATION BY AWARDED APPLICANT.....	15
12.7	RELEASE OF APPLICATION INFORMATION BY THECB.....	15
12.8	CONFLICTING RFA LANGUAGE	16
12.9	REPORTING REQUIREMENTS.....	16
12.10	KEY PERSONNEL.....	16
12.11	AFFIRMATION CLAUSES.....	17
Appendix A.....	18
	RFA DEFINITIONS.....	18
Appendix B –	19
	ANTICIPATED MEMORANDUM OF UNDERSTANDING	19
Appendix C.....	36

EVALUATION CRITERIA	36
Appendix D	37
LIST OF REQUIRED INFORMATION	37
Appendix E.....	38
COVER FORM.....	38
Appendix F.....	40
CRITERIA FOR DATA SECURITY CONTROL FOR THE EDUCATION RESEARCH CENTERS	40

**Education Research Center Designation
2016**

1 OVERVIEW OF FUNDING OPPORTUNITY

1.1 PROGRAM TITLE

Education Research Center Designation

1.2 SYNOPSIS OF PROGRAM

The Texas Higher Education Coordinating Board ("THECB") intends to enter into a 10-year MOU designating an additional Texas Education Research Center ("ERC") that will conduct research to benefit P – 20 education in Texas. Authorization for the Texas ERCs comes from Section 1.005 of the Texas Education Code, which authorizes THECB to establish up to three centers for education research which house data from THECB, the Texas Education Agency (TEA), and the Texas Workforce Commission (TWC). Currently two centers have contracts that expire in 2023. Research topics to be investigated by the center include, but are not limited to, educational, financial, and policy issues related to enrolling and graduating a larger percentage of students in higher education; student debt; and higher education to workforce issues such as marketable skills attainment. Additional research topics to be investigated by the center may include, but are not limited to the impact of state and federal education programs; the performance of educator preparation programs; public school finance; and the best practices of school districts with regard to classroom instruction, bilingual education programs, special language programs, and business practices.

The purpose of this Request for Applications ("RFA") is to solicit Applications from Qualified Eligible Applicants in order to designate an additional ERC.

1.3 POINT OF CONTACT

Jenna Cullinane Hege
Strategic Planning and Funding
Texas Higher Education Coordinating Board
Email: ERC@THECB.state.tx.us
Phone: 512-427-6148

2 AWARD SUMMARY

2.1 AVAILABLE FUNDING

There is no funding associated with this RFA.

2.2 MAXIMUM NUMBER OF AWARDS

One (1) award may be made.

**Education Research Center Designation
2016**

2.3 SELECTION CRITERIA

The Education Research Center designation will be awarded to an Applicant selected on a competitive basis. The evaluation form that will be used by reviewers appears in Appendix C, Application Evaluation Form.

2.4 COST SHARING OR MATCHING REQUIREMENTS

The Awarded Applicant will be required to fund, in conjunction with the other two existing ERCs, up to two full-time equivalent staff members at THECB. Awarded Applicant shall also support the staff, equipment, facilities, etc of the center through fundraising, grants, or other identified existing funding available for ten years.

2.5 PROJECT FUNDING PERIOD

It is anticipated that interagency MOUs resulting from this RFA shall commence on or about January 1, 2017, and continue until August 31, 2027. However, applicants should note that in approximately 6 years, THECB will plan to issue an RFA for applications at the time that the existing two projects have completed their 10 year award periods and may not choose, three years later, to issue an additional RFA. A successful applicant in this process may choose to apply during the next open period and if selected may extend for ten years from the date of award, or may operate the center for 3 more years under the existing RFA, or may allow the ten year period to lapse.

2.6 NOTICE OF INTENT DEADLINE: August 31, 2016

2.7 QUESTIONS

Should be submitted in writing via email to: ERC@theccb.state.tx.us no later than August 31, 2016

Questions and answers will be attached as an addendum to the THECB website on September 2, 2016 or as soon thereafter as soon as possible.

2.8 APPLICATION DEADLINE: October 17, 2016, at 4:00 pm Central time.

3 PROGRAM PURPOSE AND AUTHORITY

3.1 PURPOSE OF PROGRAM

ERCs carry out a range of activities to serve the needs of education in Texas. These activities include applied research, evaluation, and technical assistance activities that focus on using data and analysis to inform education decisions. To the extent possible, the activities of each ERC address issues of importance that are of interest to P-20 education in Texas.

The additional center, should one be selected, will be led by a center managing director, who will be a professional employee of the host institution. The center will operate under interagency MOUs between the governing body of the host institution, THECB. The staff of the ERC will be made up of employees of the host institution.

Education Research Center Designation 2016

The managing director must report directly to the Chief Operating Officer of the host institution unless another structure is approved by THECB. The interagency MOU will require the host institution's internal auditor to audit compliance with security requirements.

No host institution will host more than one ERC under this program. The center may be administratively housed in any administrative unit of a host institution. In addition to the requirements in this RFA, the Applicant will fully comply with all terms and conditions in the interagency MOU between THECB and TEA that apply to the Applicant. A host institution will be responsible for providing all storage, security, and computational resources necessary for the operation of the Center. No other access will be provided outside of the host institution without express written consent of the THECB.

Applications must include a fully-developed research agenda, which includes topics, and subtopics that more finely delineate which part of the topic is to be part of the agenda. Included in the subtopics should be the questions that the subtopic seeks to answer. Research proposals will include research on data existing in the ERC data warehouse; supplementary data will not be added to the ERC data warehouse on permanent bases but will, with Advisory Board approval, be allowable for specific projects and must be provided by THECB after identifiers are removed. The Applicant must include prior examples of high quality educational research.

Example of fully-developed research agenda topic:

Agenda Topic: Educator Preparation

Subtopic: Administrator Preparation

Research Question: Given similar campus demographics, do schools with administrators who have become certified through a traditional university system program perform better than schools with administrators who have obtained alternative certification?

Research Question: Which certification preparation programs provide administrators for high-performing urban high schools?

Research Question: What is the average persistence of administrators from different preparation programs in different school demographics?

Subtopic: Math Teacher Preparation

Research Question: Which teacher preparation programs/strategies are producing teachers who teach in the highest/lowest performing schools in the area of mathematics?

Education Research Center Designation 2016

Research Question: Which elementary education teacher preparation programs/strategies have contributed to schools that are outperforming their comparable peer schools?

Each research agenda topic and research question should specifically delineate how the research results can serve to improve the education of Texas students. At least 75 percent of the research proposals submitted for approval must address the proposed research agenda. (See 1.2.)

3.2 PROGRAM AUTHORITY

ERCs are authorized pursuant to Section 1.005 of the Texas Education Code. This section authorizes THECB to establish up to three Centers operating under a Memorandum Of Understanding (MOU).

4 ELIGIBILITY INFORMATION

4.1 ELIGIBLE APPLICANTS

An ERC may be established as part of: (1) THECB, or (2) a Texas public junior college, public senior college or university, or public state college (as defined by Texas Education Code, Section 61.003). THECB reserves the right to designate fewer than (1) ERC or to determine that an ERC will be operated directly by one of the agencies.

4.2 MAXIMUM NUMBER OF SUBMISSIONS BY APPLICANT

Based upon the prescribed services outlined in this RFA, Eligible Applicants may submit one Application from the institution. Applications may include participation of multiple institutions, but a single qualified institution must apply and agree to be responsible for fulfilling all commitments made in the Application.

5 NOTICE OF INTENT GUIDELINES

5.1 NOTICE OF INTENT IS REQUIRED

To be considered for a Grant Award, all Applicants must submit a completed Notice of Intent to THECB by the established deadline.

Applications for which THECB has not received a Notice of Intent will not be considered for a Grant Award.

NOTICE OF INTENT DEADLINE: August 31, 2016
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**Education Research Center Designation
2016**

5.2 NOTICE OF INTENT SUBMISSION

5.2.1 *Submission Deadline.* Eligible Applicants desiring to submit an Application are **REQUIRED TO SUBMIT** a Notice of Intent to Apply on or before August 31, 2016.

5.2.2 *Form Required for Submission.* The Notice of Intent **MUST** contain the information discussed in Sections 5.2.3-5.2.6.

5.2.3 *Submission Instructions.* Please submit the Notice of Intent to Apply by email to ERC@theccb.state.tx.us Responses to FAQs and working documents for Appendices C through E will be sent to all Eligible Applicants who have submitted a Notice of Intent to Apply.

5.2.4 *Subject Line of Email.* The email subject line must state "**Notice of Intent to Apply for Education Research Center Designation**".

5.2.5 *Identity of Applicant (Institution and Program/Unit).* The Notice of Intent to Apply must include the name of the institution and program/unit within the institution.

Applicant is solely responsible for ensuring that Applicant's complete electronic Notice of Intent is sent to, and actually received by, THECB in a timely manner. Applicant should retain proof of NOI timely submission.

THECB takes no responsibility for electronic Notices of Intent that are captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any THECB or Applicant anti-virus or other security software.

THECB will email confirmation of Notice of Intent receipt to Applicant within three state business days of receipt by THECB. Applicant must not consider a Notice of Intent received by THECB until Applicant has received an email confirmation from THECB. **If Applicant has not received such confirmation from THECB within three state business days of submission, contact the Point of Contact at 512-427-6141. Applicant may be requested to provide proof of timely submission.**

5.2.6 *Individual Authorized to Submit Application.* Name, address, telephone number, and email address of individual authorized to submit an Application on behalf of the institution. Any award of an ERC will take the form of an agreement directly with the governing body of the institution.

6 INQUIRIES

All inquiries shall be directed to the email point of contact at ERC@theccb.state.tx.us. Applicants and prospective Applicants must not discuss an Application with any THECB employee unless authorized by the email Point of Contact. **Questions must be submitted in writing via email and on or before August 31, 2016.** All responses by THECB must be in writing in order to be binding. All questions and information related to this RFA shall

**Education Research Center Designation
2016**

be sent in the form of an FAQ to all Applicants who have submitted a Notice of Intent or an Application. If there is something that warrants an addendum to the RFA, receipt of all addenda, if any, to this RFA should be acknowledged by returning a signed copy of each addendum with the submitted Application.

7 APPLICATION SUBMISSION GUIDELINES

An Application may be submitted only if Applicant has received a confirmation from THECB that THECB received its Notice of Intent on or before the established deadline.

APPLICATION DEADLINE: October 17, 2016
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7.1 SUBMISSION DEADLINE

7.2 FORMS REQUIRED FOR SUBMISSION

The requisite cover form is available in Appendix E.

7.3 SUBMISSION INSTRUCTIONS

Applicants must submit an Application in a single **.PDF (Portable Document) format** (no larger than 5MB) and according to the guidelines in Section 8. Zipped files may be submitted.

Applications must be submitted to email point of contact at
ERC@theeb.state.tx.us

Subject line must state: **"Education Research Center."**

Applicant is solely responsible for ensuring that Applicant's complete electronic Application is sent to, and actually received by, THECB in a timely manner and at the proper destination server. Applicant should retain proof of timely submission.

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

THECB will email confirmation of Application receipt to Applicant within three state business days of receipt by THECB. Applicant must consider an Application not received by THECB until Applicant has received an email confirmation from THECB. **If Applicant has not received such confirmation from THECB within three state business days of submission, contact the Point of Contact at 512-427-6141. Applicant will be requested to provide proof of timely submission.**

**Education Research Center Designation
2016**

8 APPLICATION FORMAT AND CONTENT

An Application must include the elements described in Subsections 8.1 through 8.7 of this RFA.

In completing the Application, it is important to provide sufficient information to allow reviewers to clearly evaluate the Application based on the selection criteria described in Sections 10.2.1 and 10.2.2 of this RFA.

8.1 APPLICATION FORMAT

8.1.1 Applications must be typed, double-spaced, on 8 1/2" x 11" paper, clearly legible, with all pages sequentially numbered, and **submitted electronically in a single .PDF (Portable Document) format, no larger than 5MB.** The Applicant's name and "Education Research Center" must be typed at the top of each page. Do not use a font smaller than 11.

8.1.2 Applicant shall submit an Application according to the Selection Criteria outlined under this RFA in Section 10. See Appendix D for List of Required Information.

8.2 COVER FORM

In the format provided in Appendix E, Cover Form, list contact information for the Principal Investigator and Co-Investigator (if applicable) and the Institutional Representative authorized to submit an Application on behalf of the institution.

8.3 TABLE OF CONTENTS

A Table of Contents must be included with respective page numbers opposite each topic. The Application must contain the items in sequence as outlined in Appendix D.

8.4 TRANSMITTAL LETTER

A Transmittal Letter must be emailed to the Point of Contact at ERC@thecb.state.tx.us that identifies the host institution submitting the Application and includes a commitment by that entity to provide the services required by THECB. The letter must specifically identify that the Application is in reference to *Education Research Center*. The transmittal letter must state that the Application is valid for ninety (90) days from the deadline for delivery of Applications to the THECB. Any Application containing a valid term of less than 90 days will be rejected as non-responsive. The transmittal letter must be signed by a person legally authorized to bind the host institution to the Application. If an Applicant takes exception to any of the proposed terms and conditions stated in this RFA, those exceptions must be noted in the transmittal letter; however, failure to accept these terms and conditions may result in disqualification of the Application. If Applicant takes any exceptions to any provisions of this RFA, these exceptions must be specifically and clearly identified by Section in Applicant's Application in response to this RFA and Applicant's proposed alternative must also be provided in the Application. Applicants cannot take a "blanket exception" to this entire RFA. If any Applicant takes a "blanket exception" to this entire RFA or does not provide proposed alternative language, the Applicant's Application may be disqualified from further consideration. Any terms and conditions attached to an Application

Education Research Center Designation 2016

will not be considered unless specifically referred to in this RFA and Applicant's attachment of such terms and conditions to an Application may result in disqualification of the Application. Applicants are strongly encouraged to submit written questions during the official question and answer period regarding any term or condition of this RFA.

8.5 ABSTRACT

The Abstract, limited to 200 words, highlights key points of the proposed center. The Abstract must include the identification of the Applicant and a brief rationale for selected strategies to achieve the goals and objectives discussed in this RFA.

8.6 NARRATIVE

The Narrative of the Application must not exceed twenty (20) pages. The Narrative must include the information as outlined in Section 8, Selection Criteria.

8.7 BUDGET

The Applicant shall include a plan of how the Education Research Center intends to sustain itself through fundraising, fees, etc. in order to remain solvent. The Applicant must include a total budget and individual budgets for each of the following Project Periods: September 1, 2016 through August 31, 2017; September 1, 2017 through August 31, 2018. Brief explanations of budget line items are provided below:

8.7.1 Principal Investigator and Co-Investigator(s). Include salaries projected for the principal investigator and co-investigator(s) employed by the Awarded Applicant to perform the project.

8.7.2 Other Professional Staff. Other professional staff, including salaried faculty.

8.7.3 Support Staff. Include salaries for support staff such as secretarial, clerical, or other classified staff supporting the administration of the proposed project.

8.7.4 Fringe Benefits. For Applicant, include on this line only those fringe benefits projected to be paid from award funds.

8.7.5 Travel. In addition to travel costs associated with implementing the proposed evaluation, include the cost of one (1) overnight trip to Austin, Texas. Assume: 1) at least (18) site visits will be needed to schools across the state of Texas and 2) at least two (2) planning committee meetings during the two years of the evaluation.

8.7.6 Professional or Other Fees. Include fees paid to consultants, tutors, trainers, or other non-staff persons necessary to provide appropriate services for the proposed project.

8.7.7 Student Incentives (if applicable). Include costs associated with any incentives provided for students.

8.7.8 Other Direct Costs. Include other direct costs to implement the proposed project including faculty/student materials, supplies, and non-capital expenses necessary for successful proposed project implementation.

**Education Research Center Designation
2016**

9 TERMS AND CONDITIONS SPECIFIC TO THIS RFA

9.1 OWNERSHIP OF WORK

All property rights, including publication rights, to all products developed hereunder shall be retained by Awarded Applicants. However, Awarded Applicants shall ensure that duplication and distribution rights at no cost are secured to THECB.

Upon any request by THECB for the surrender of any work papers or work product, Awarded Applicant shall immediately remit such work papers or work product. Any failure to immediately surrender such work papers or work product shall be considered a breach of the interagency MOU.

To the extent allowed by law, Awarded Applicant shall indemnify and hold harmless THECB and its respective officers, directors, agents and employees, from and against any and all claims, damages, liabilities, costs, and expenses (including reasonable attorney's fees), arising out of or in any way connected with any claim that the work performed by Awarded Applicant infringes any intellectual property rights or other rights of any third party.

Awarded Applicant understands and acknowledges that, as a Texas state agency, THECB is subject to the provisions of the Texas Public Information Act, and agrees to fulfill any Public Information Act requests involving data provided to the ERC and as requested by THECB.

9.2 INSPECTIONS

Throughout the effective period of an interagency MOU resulting from this RFA, all work products shall be subject to inspection and test by authorized THECB representatives.

Education Research Center Designation 2016

9.3 AUDIT AND ACCESS TO RECORDS

Awarded Applicants shall maintain and make available for review, inspection and/or audit all books, records, documents, and other evidence reasonably pertinent to performance on all work under the interagency MOU, including negotiated changes or amendments thereto, in accordance with accepted professional practices. Awarded Applicants shall also maintain and make available the financial information and data used in the preparation or support of any cost submission required by THECB (if applicable) under the interagency MOU or any negotiated sub agreement or change order and a copy of the cost summary submitted to THECB. THECB, through any of their duly authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of review, inspection, copying, and/or audit. All such information shall be handled by the parties in accordance with good business ethics. Awarded Applicant shall also follow procedures developed by THECB audit staff as required by THECB.

Awarded Applicants agree to the disclosure to THECB of all information and reports resulting from access to records pursuant to the above paragraph. Where the audit concerns Awarded Applicant, the auditing agency will afford Awarded Applicant an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties. Awarded Applicants agree that primary responsibility for audit and security at an ERC lies with the governing body of the host institution and agrees to utilize its independent auditor as directed by THECB to maintain security of student information and compliance with the terms of the interagency agreement. Awarded Applicants agree to submit an internal audit in their annual report.

9.4 ADVISORY BOARD

A twelve-member advisory board is appointed by the Commissioner of Higher Education to provide direct, joint supervision for the program. The advisory board will be co-chaired by the Commissioner of Higher Education or his designee and will consist of stakeholders with expertise in P – 20 education. The advisory board will advise THECB regarding administrative procedures for the program, research projects to be conducted by the research centers, and program evaluation. The advisory board, with assistance from the ERCs, will define minimum documentation standards for research projects as well as adopt other policies related to the operation of the centers. The advisory board will give input to the centers on topics for research and will provide comments on the center's research agenda. The Joint Advisory Board will be consulted for approval of all new and extended research projects. The Joint Advisory Board is the only body which can give approval for any researcher to use the Education Research Center data for research purposes.

9.5 DATA WAREHOUSE

To facilitate the work of the ERCs and to avoid duplication of effort, THECB will operate a data warehouse under an interagency MOU with TEA. This data warehouse will be responsible for providing research centers with both P – 12, higher education, and workforce data. THECB will be responsible for ensuring that data provided are accurate as reported to the ERCs and for maintaining privacy of individual student data through de-identification and other controls.

Education Research Center Designation 2016

THECB will allow for secured remote access to the data warehouse by the requesting research center in a method to be determined by THECB staff.

Approved researchers may only have access to data authorized for their specific research proposal that has been approved for the specific research project by the Joint Advisory Board. Data may not be moved, copied, or shared with any individuals or entities that were not parties to the original research proposal for which the data were provided. The research centers will become the primary source of providing physical access to student-level education data for other researchers. No access to the data will be provided outside the approved physical designations as outlined in the Application for this RFA. No access to data will be provided at any location outside of the awarded host institution. Methods of restricting approved datasets for researchers will be determined based upon security criteria defined by THECB.

Any researcher provided access to the data warehouse must be under the direct authority of the ERC, complete annual FERPA training, and abide by controls stipulated by THECB at all times. Failure of the research center to adhere to these security restrictions, as assessed and determined by THECB, may result in sanctions, to be determined by THECB, up to and including termination of the interagency agreement.

The ERC Data will be provided to the successful bidder. Any bidders wishing to use data maintained on a server other than THECB hosted servers must respond with their security specifications as to how the data will be secured and restricted to only authorized researchers. Minimum security requirements are: 1) the system must log researcher access; 2) access must be restricted with a thin client method; 3) THECB will have direct and mandatory access to logs, automated reports providing a weekly status on research projects, locations accessing the data, and released research products. Bidders must provide a security criteria document detailing how they will meet these requirements.

An Applicant shall submit a plan or description of the space that is available for researchers to use who need to access the data. This plan should include methods of keeping any copies of data from leaving the site. Any special networking considerations should also be provided.

An Applicant shall submit information on any instances or issues regarding a breach or potential breach in data security at the proposed host institution that has occurred within the past 5 years. Applicants must provide information on how these issues were addressed and what actions were taken to prevent additional instances in the future.

As part of their application, Applicants must provide a statement from the University's Information Security Officer (ISO) outlining the University's data stewardship policies and FERPA compliance.

Fees will be charged to the host institutions each year by THECB to implement cost recovery for updating, housing, and providing access to data and software for the researchers.

10 SELECTION CRITERIA

Education Research Center Designation 2016

The evaluation form that will be used by reviewers appears in Appendix C, Application Evaluation Form.

10.1 DATA SECURITY AND APPLICANT RESOURCES (25 POINTS)

An Applicant shall briefly describe processes and policies it intends to implement to ensure the utmost data security. In addition, describe what resources would be available to effectively and efficiently create, plan, conduct, audit, and manage the proposed center for a minimum of 5 years. Applications must meet the minimum standards as outlined in Appendix F.

10.2 HIGH QUALITY RESEARCH AGENDA (35 POINTS)

An Applicant shall describe the research agenda being put forth and the policy implications. Proposed research agendas and questions should focus on the topics outlined in TEC 1.005, as well as any other important areas of expertise or interest.

10.3 PRIOR EFFORTS (20 POINTS)

An Applicant shall include in its Application, as Attachment A, prior research studies along with the final report and policy relevance. These research studies must have been part of the applying institution's prior work, and must be related to PK-20 education.

10.4 QUALITY OF MANAGEMENT TEAM OVERALL QUALIFICATIONS AND EXPERIENCE (20 POINTS)

An Applicant shall briefly describe the qualifications, including relevant education, training, and experience of all key personnel, and the amount of time each will devote. As supplementary information, one-page curriculum vitae must be attached to the Application as Attachment B-1, B-2, etc. for key personnel. Position descriptions which include the criteria for hiring may be substituted for vitae. Include list of qualifications of proposed ERC Directors as well as resumes and references.

11 DELIVERABLES

There is no funding for an ERC; however, sustainability will be one criterion in the evaluation.

The host institution will be required to submit a report each year summarizing its center's finances, research efforts and results, and fund-raising efforts. The report will provide details on what research has been released to both agencies that helps guide improvements to the education of Texas students. All completed research projects should be listed with the deliverable provided to the Joint Advisory Board at the time of approval. The Joint Advisory Board is discussed in Section 7.4 below.

Each specific research project undertaken by a center shall produce a final report, in a .pdf format suitable for distribution at no cost that describes the work done, the results, the implications for education and public schools, and sources of further information. Each Center will be required to work with educational leaders to disseminate any promising programs or methods.

The Project Director of the Grant must electronically submit the reports listed below.

**Education Research Center Designation
2016**

- **Annual progress report, including internal audit**
- **Assessment of challenges and lessons learned**
- **Reports that propose state or local efforts to implement new educational policies suggested by the data analysis and research efforts of the ERC and sponsored researchers.**

The THECB is requesting Applications from Eligible Applicants to be designated as an ERC:

- General – Awarded Applicant shall, in a good and satisfactory manner, carry out the tasks necessary to establish and operate the proposed ERC. The host institution will maintain management oversight and provide administrative support for the center, space, and other campus services as needed. In creating the center, Awarded Applicant shall establish a management structure that allows THECB to provide direct, joint supervision of the center.
- Expanded Research Agenda Descriptions – It is anticipated that the initial research agenda of each center will be derived from proposed research agenda and questions included in the Awarded Applicant's Application. However, it may be necessary to request additional information on specific research questions from a participating agency, as approved by the Joint Advisory Board. Awarded Applicant shall provide these as necessary at a cost approved by the Board. To clarify, "agenda" constitutes general areas of inquiry and not specific projects.
- Final Research Project Reports – Awarded Applicant shall produce, for each research project completed, a written final report that grants a license for public distribution by THECB AND is suitable for general distribution and available free to the public. The final report shall include detailed recommendations based on the research results for the improvement of the education of Texas students.
- Presentations – From time to time it may be desirable for center personnel to make formal presentations at no cost to THECB, legislative committees, or other groups or audiences, as requested by THECB.
- Center Fundraising Campaign - Awarded Applicant shall support the center through fundraising, grants, or other identified existing funding available to support the center for ten years. Each potential center's fundraising potential will be one of the key criteria in evaluating center Applications. Awarded Applicant shall support a proportionate share of up to two full-time equivalent staff members at THECB.

Award of the designation of ERC does not in any way substitute as approval for any specific research proposal. All research proposals, including those which are contained in the submitted research agendas and questions, must be submitted in the appropriate format to the Joint Advisory Board for approval before any data are accessed for use in the proposal.

12 PROVISIONS AND ASSURANCES

**Education Research Center Designation
2016**

12.1 COST OF APPLICATION PREPARATION

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

12.2 APPLICATION DELIVERY AND LATE APPLICATIONS

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

12.2.2 Applications shall be considered to be "on time" if they are received on or before the established deadline date and time. Applicant shall be solely responsible for ensuring that Application is received by THECB prior to the deadline outlined in Subsection 2.6. 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 request shall result in Applicant losing the opportunity to receive an award under this RFA. A late Application, regardless of circumstances, shall not be evaluated or considered for award.

12.3 CONFLICT OF INTEREST

Applicants must disclose any existing or potential conflicts of interest relative to the performance of the requirements of this RFA. Failure to disclose a conflict of interest may be cause for disqualification of an Application or termination of a MOU resulting from this RFA. If, following a review of this information, it is determined by THECB that a conflict of interest exists, Applicants may be disqualified from further consideration.

12.4 MOU

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

12.4.2 Upon execution of a MOU resulting from this RFA, the term 'Applicant' or 'Eligible Applicant' shall have the same meaning as 'Awarded Applicant' and 'Performing Agent'.

Education Research Center Designation 2016

Likewise, the terms 'Request for Applications' and 'Application' shall have the same meaning as the terms 'MOU' and 'Agreement.'

12.5 PROPRIETARY INFORMATION

During the performance of a MOU resulting from this RFA, Awarded Applicant may have access to data, information, files, and/or materials (collectively referred to as "data"), which are the property of THECB and TEA, an institution of higher education, and/or a public school district. These data shall be handled in a method that complies with Family Educational Rights and Privacy Act ("FERPA") regulations and guidelines.

Applicant agrees to comply with FERPA, 20 U.S.C. Section 1232g, and the implementing federal regulations, 34 CFR Part 99. Applicant agrees (1) to protect any confidential student information it receives or accesses that could make a student's identity traceable, and (2) any confidential data analysis or report shall not be disclosed to any third party without THECB's prior written consent.

Awarded Applicant shall have a system in effect to protect all data received or maintained in connection with the activities of this RFA. Awarded Applicant agrees to use its best efforts to preserve the safety, security, and integrity of the data, and to ensure the privacy and confidentiality of all data. Any disclosure or transfer of proprietary information by Awarded Applicant shall be in accordance with applicable federal or Texas law.

12.6 RELEASE OF INFORMATION BY AWARDED APPLICANT

9.6.1 Awarded Applicant shall NOT release any data that are not FERPA-compliant. Failure to follow the guidelines established may result in immediate termination of the MOU.

9.6.2 Awarded Applicant agrees to notify THECB Point of Contact designated in the awarded MOU and must receive written THECB consent prior to releasing any information to third parties under any MOU resulting from this RFA. Awarded Applicant is prohibited from any publicity that could be construed as an endorsement by the THECB of the Awarded Applicant or the products or services provided by the Awarded Applicant pursuant to the MOU.

12.7 RELEASE OF APPLICATION INFORMATION BY THECB

12.7.1 *Public Information Act.* Awarded Applicant understands and acknowledges that as Texas state agencies, THECB is subject to the provisions of the Texas Public Information Act, Government Code, Chapter 552 as interpreted by judicial opinions and the opinion of the Attorney General of the state of Texas. Awarded Applicant will cooperate with THECB in the production of documents responsive to any such requests under the Public Information Act.

Education Research Center Designation 2016

THECB will make a determination whether to submit a Public Information Act request to the Attorney General.

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

12.7.3 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 at 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.

12.7.4 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 MOU is awarded. The production of any material under the MOU shall not have the effect of violating or causing THECB to violate any law, including the Texas Public Information Act.

12.8 CONFLICTING RFA LANGUAGE

In the event that 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.

12.9 REPORTING REQUIREMENTS

Awarded Applicant shall produce, for each research project completed, a written final report that is suitable for general distribution and available free to the public, as described in Section 1.3 above.

12.10 KEY PERSONNEL

Awarded Applicant, 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 and

**Education Research Center Designation
2016**

skilled in the tasks necessary to accomplish the project. Awarded Applicant shall provide to THECB written notice of any proposed change in key personnel.

12.11 AFFIRMATION CLAUSES

Applicant has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, travel, favor, or service to a THECB public servant, including employees, in connection with the submitted Application.

Neither Applicant nor institution represented by Applicant nor anyone acting for such institution has (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws, or (2) communicated the contents of this Application either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for this RFA.

Under Texas Government Code, Section 2155.004, no person who was compensated by the THECB to assist in preparing the RFA specifications or this RFA has any financial interest in Applicant's Application. If Applicant is not eligible, then any MOU resulting from this RFA shall be immediately terminated. Further, under Texas Government Code, Section 2155.004, Applicant certifies that the individual or business entity named in the bid or MOU is not ineligible to receive the specified MOU and acknowledges that the MOU may be terminated and payment (if applicable) withheld if this certification is inaccurate.

**Education Research Center Designation
2016**

Appendix A

RFA DEFINITIONS

The following definitions shall apply:

1. **Awarded Applicant** – The successful Applicant ultimately awarded an interagency MOU by THECB. The Awarded Applicant is responsible for performing all services and activities required to fully comply with interagency MOU performance requirements. In addition the Awarded Applicant will fully comply with all terms and conditions in the interagency MOU between the THECB that apply to the Awarded Applicant.
2. **FERPA** - The Family Educational Rights and Privacy Act. FERPA is a federal law concerning the privacy of student records and the obligations of the institution, primarily in the areas of release of the records and the access provided to these records. Any educational institution that receives funds under any program administered by the U.S. Secretary of Education is bound by FERPA requirements. Institutions that fail to comply with FERPA may have funds administered by the Secretary of Education withheld.
3. **Eligible Applicant or Applicant** – A Texas public community college, college, or university submitting an Application for the provision of research services in accordance with the terms and conditions of this RFA. The desired approach to the organization of the centers is a collaborative effort among institutions or systems of higher education.
4. **State of Texas Business Days** – Monday through Friday, 8:00 a.m. to 5:00 p.m., except for scheduled State of Texas and national holidays.
5. **State of Texas Fiscal Year** – The period beginning September 1 and ending August 31.
6. **OAG** – Office of Attorney General. OAG responsibilities include the administration of public information requests. OAG is located at 300 W. 15th Street, Austin, TX 78701.
7. **TEA** – The Texas Education Agency, an agency of the State of Texas.
8. **THECB** - The Texas Higher Education Coordinating Board, an agency of the State of Texas.
9. **TWC** – The Texas Workforce Commission, an agency of the State of Texas.

**Education Research Center Designation
2016**

Appendix B –

ANTICIPATED MEMORANDUM OF UNDERSTANDING

THECB Contract Number: **{bmsReference}**

STATE OF TEXAS §
COUNTY OF TRAVIS §

MEMORANDUM OF UNDERSTANDING

Section 1.0 Parties

This agreement ("Contract") is entered into by and between the TEXAS HIGHER EDUCATION COORDINATING BOARD (THECB), an agency of the State of Texas, hereinafter designated "THECB" or "Receiving Agency" and **{contracted_party}**, hereinafter designated "Performing Agent." At times, the THECB and the Performing Agent are referred to singularly as "Party" and plurally as "Parties".

Receiving Agency: Texas Higher Education Coordinating Board
1200 East Anderson Lane
Austin, Texas 78752

Performing Contractor: **{contracted_party}**
{contractedPartyAddress}
{contractedPartyCity}, {contractedPartyState}
{contractedPartyZip}

Section 2.0 Term of Contract

The term of Contract will be beginning on **{period_start}** and ending on **{period_end}**, unless extended or terminated as otherwise provided for in this Contract ("Contract Term").

Section 3.0 Purpose and Statement of Services to be Performed

3.01 {description}

In consideration of the mutual promises set forth in this Contract and other consideration received, the Parties agree as follows:

3.02 {statement of Work}

Section 4.0 Terms and Conditions

4.01 Termination:

**Education Research Center Designation
2016**

4.01.1 Convenience of the State: THECB, in its sole discretion, has the right to terminate this Contract, in whole or in part, by notifying Contractor in writing of such termination. Notification of the termination shall state the effective date of the termination.

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

If Contractor fails or refuses to perform its obligations under this Contract, 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, Contractor 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 Contractor's non-performance.

4.01.3 Abandonment or Default: If the Contractor Abandons or Defaults on the Contract, THECB reserves the right to terminate the Contract without notice and either re-solicit or re-award the Contract to the next best responsive and responsible respondent. In such event, the Contractor 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.

4.01.4 Interpretation: THECB may terminate this Contract immediately upon notice to Contractor in the event federal or state law is enacted, amended, or judicially interpreted so as to render continued fulfillment of the Contract, on the part of THECB, wholly unreasonable or impossible. THECB reserves the right, at its sole discretion, to unilaterally amend this Contract throughout the Contract 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.

4.01.5 Non-Appropriation: This Contract is subject to termination by THECB, either in whole or in part, if state funds become unavailable. THECB is a state agency whose authority and appropriations are subject to actions of the Texas Legislature and whose availability of funds may be subject to governmental action. If THECB becomes subject to a legislative change, revocation of statutory authority, lack of appropriated funds, or unavailability of funds which would render Contractor's delivery or performance under this Contract

**Education Research Center Designation
2016**

impossible or unnecessary, this Contract will be terminated, either in whole or in part. In the event of a termination under this Section, THECB will not be liable to Contractor or any other person or entity for any payments, damages or any other amounts which were otherwise due or which may be caused or associated with such termination and THECB is not required to give prior notice of such termination.

4.01.6 Effect of Termination: Upon any termination, all indemnities, including without limitation those set forth in this Contract, as well as Contract provisions regarding confidentiality, records retention, right to audit, ownership, and dispute resolution, shall survive the termination of this Contract for any reason whatsoever and shall remain in full force and effect. In the event of any termination, Contractor 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 Contractor 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 Contract requirements, plus any necessary work deemed appropriate by THECB to cost-effectively wind-up.

4.01.7 Transfer of Duties: In the event of termination, Contractor will provide reasonable cooperation to transfer its duties under the Contract to another entity without disruption.

4.02 Amendment: This Contract may be modified only by written amendment executed by the Parties hereto. Fees and expenses included as part of an amendment must be pre-approved by THECB to be eligible for payment and reimbursement.

4.03 Entire Agreement and Order of Precedence: This Contract consists of the following documents: the final executed Contract (including its Exhibits and any Amendments), THECB's Request for Offers, and the Contractor's response to the Request for Offers.

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 final executed Contract (including its Exhibits and any Amendments); (2) THECB's Request for Offers; and (3) Contractor's response to the Request for Offers

This Contract (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 Contract. The Parties further agree that this Contract may not in any way be explained or supplemented by a prior

**Education Research Center Designation
2016**

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 Contract or otherwise.

4.04 Substitutions: Substitutions are not permitted without the written approval of THECB.

4.05 Indemnification:

Acts or Omissions

CONTRACTOR 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 CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR 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 CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE OF THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

Infringements

- a) CONTRACTOR 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 CONTRACTOR PURSUANT TO THIS CONTRACT. CONTRACTOR AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR 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 CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE OF THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
- b) Contractor shall have no liability under this section if the alleged infringement is caused in whole or in significant part by: (i) THECB 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 Contractor's approval, (iii) any modifications made to the product by the Contractor 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 Contractor, 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.

**Education Research Center Designation
2016**

- c) If Contractor becomes aware of an actual or potential claim, or THECB provides Contractor with notice of an actual or potential claim, Contractor may (or in the case of an injunction against THECB, shall), at Contractor'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.

4.06 Taxes/ Workers' Compensation/Unemployment Insurance – Including Indemnity

- 1) CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF CONTRACTOR'S AND CONTRACTOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCE OF THIS CONTRACT. CONTRACTOR 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 CONTRACTOR, 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.
- 2) CONTRACTOR 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 CONTRACT. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR 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 CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE OF THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

- 4.07 Sovereign Immunity:** The Parties stipulate and agree that no provision of, or any part of this Contract between THECB and Contractor, 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

**Education Research Center Designation
2016**

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 Contract and specifically retain such immunity and all defenses available to them under the laws of the State of Texas or the common law.

- 4.08 **Assignment, Delegation, or Subcontracting:** Unless as otherwise provided for in this Contract, no contractual rights, interest, or obligation shall be assigned, delegated, or subcontracted by Contractor without prior written approval of THECB. No assignment, delegation, or subcontract approved by THECB shall relieve Contractor of any obligation or responsibility under this Contract. It is THECB's intent that to the extent subcontracting is approved by THECB, Contractor 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 Contract. The goal of the HUB program is to promote full and equal business opportunities for all businesses contracting with the State of Texas.
- 4.09 **Right to Audit; Records Retention:** Contractor understands that acceptance of funds under this Contract, or indirectly through a subcontract under this Contract, 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 contracts 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. Contractor further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including promptly providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirements to cooperate is included in any subcontract it awards.
- Contractor shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Contractor in connection with the Contract Project. These records and accounts (which includes all receipts of expenses incurred by Contractor) shall be retained by Contractor 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 Contract Project or the date of the receipt by THECB of Contractor's final claim for payment or final expenditure report or until a resolution of all billing questions in connection with this Contract, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed. Contractor 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 Contract. Contractor and any subcontractors shall provide any Audit Entities with any information such entity deems relevant to any monitoring, investigation, evaluation, or audit.
 - Contractor's failure to comply with this subsection (Right to Audit; Records Retention) shall constitute a material breach of this Contract and shall authorize THECB and the State of Texas to immediately assess appropriate damages for such failure. THECB

**Education Research Center Designation
2016**

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 Contract. Contractor shall reimburse THECB for any over-payments within thirty (30) calendar days of receipt of THECB's written notice.

4.10 Family Code Applicability: By signing this Contract, Contractor certifies that under Section 231.006, Family Code, Contractor is not ineligible to receive payment under this Contract and acknowledges that this Contract may be terminated and payment may be withheld or recouped if this certification is inaccurate. If this certification is shown to be false, Contractor is liable to THECB for attorneys' fees, the costs necessary to complete the Contract, including the cost of advertising and awarding a second contract, and any other damages provided by law or Contract.

4.11 Dispute Resolution: The dispute resolution process provided for in Texas Government Code, Chapter 2260 and 19 Texas Administrative Code, Part 1, Chapter 1, Subchapter B shall be used by Contractor to attempt to resolve any claim for breach of this Contract.

4.12 Public Disclosure: Contractor understands and agrees that no public disclosures or news releases pertaining to this Contract, including any results, findings or reports conducted to fulfill requirements of this Contract, shall be made without prior written approval of THECB.

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

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

Workers Compensation: Statutory Limits:
Employers Liability: Each Accident \$1,000,000
Disease- Each Employee \$1,000,000
Disease-Policy Limit \$1,000,000

Commercial General Liability:

Occurrence based:
Bodily Injury and Property Damage
Each occurrence limit: \$1,000,000
Aggregate limit: \$2,000,000
Medical Expense each person: \$5,000
Personal Injury and Advertising Liability: \$1,000,000
Products /Completed Operations Aggregate Limit: \$2,000,000
Damage to Premises Rented to You: \$50,000

Note: The required coverage is to be with companies licensed in the state of Texas, with an "A" rating from A.M. Best, and authorized to provide the corresponding coverage.

**Education Research Center Designation
2016**

- 4.14 **Confidentiality, Public Information Act, and FERPA:** Notwithstanding any provisions of this Contract to the contrary, Contractor 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. Contractor 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.

THECB will make a determination whether to submit a Public Information Act request to the Attorney General. This Contract and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. Contractor will notify THECB's contact within 24 hours of receipt of any third party requests for information it receives relating to this Contract. Contractor is required to make any information created or exchanged with the State pursuant to this contract, and not otherwise accepted 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.

- Contractor agrees to maintain the confidentiality of information received from THECB and the State of Texas during the performance of this Contract, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Contractor will not disclose any information to which it is privy under this Contract without the prior written consent of THECB. Contractor 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 Contractor of information also held by the State of Texas or THECB to which Contractor is privy under this Contract.
- Contractor 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.

Protection of Confidential Data

Contractor agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in FERPA (34 CFR § 99.33 (a)(2)) and with the terms set forth below. 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.

Acknowledgment of Access to Covered Data and Information (CDI)

Contractor acknowledges that the Contract allows the Contractor access to CDI, in accordance with FERPA.

Prohibition on Unauthorized Use or Disclosure of CDI

Contractor agrees to hold CDI in strict confidence. Contractor shall not use or disclose CDI received from or on behalf of THECB except as permitted or required by the Contract, as required by law, or as otherwise authorized in writing by THECB.

Education Research Center Designation 2016

Contractor agrees not to use CDI for any purpose other than the purpose for which the disclosure was made.

Return or Destruction of CDI

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

Breach

Any violation of these FERPA provisions by Contractor shall be deemed a material breach of the Contract.

Maintenance of the Security of Electronic Information

Contractor 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 Contractor.

Reporting of Unauthorized Disclosures or Misuse of Covered Data and Information

Contractor shall, within one hour of discovery, report to THECB any use or disclosure of CDI not authorized by this Contract or in writing by THECB. Contractor'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 Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as requested by THECB.

4.15

Felony Criminal Convictions: Contractor represents and warrants that Contractor has not and Contractor's employees who will be involved in the Contract Project have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Contractor has fully advised THECB as to the facts and circumstances surrounding the conviction(s) and has received THECB's prior written consent to proceed.

4.16

Ownership/Work Made for Hire: All work product generated as a result of this Contract Project, including but not limited to all information, materials, products, research, reports, studies, statistical analyses, work papers, approaches, designs, deliverables, systems, documentation, methodologies, concepts, research materials, data, photos, software, intellectual property or other property produced or generated in connection with this Contract that had not previously been produced or generated by Contractor, either completed or partially completed, shall be the sole property of THECB and all rights, title, and interest in and to the work product shall vest in THECB upon payment for the Services.

**Education Research Center Designation
2016**

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

Contractor shall ensure that this provision, "Ownership/Work Made for Hire," is contained in any subcontract Contractor is authorized by THECB to award. Contractor may, at its own expense, keep copies of all its materials for its personal files. Contractor shall not use, willingly allow, or cause to have such work product used for any purpose other than the performance of Contractor's obligations under this Contract without the prior written consent of THECB; provided, however, that Contractor shall be allowed to use non-confidential materials for writing samples in pursuit of work.

4.17 Applicable Law and Venue: This Contract and any incorporated documents shall be governed by and construed in accordance with the laws of the State of Texas. The exclusive venue of any suit brought concerning the Contract and any incorporated documents, including all Exhibits, is fixed in any Court of competent jurisdiction in Travis County, Texas, and all payments under the Contract shall be due and payable in Travis County, Texas.

4.18 Additional Contractor Responsibilities: Contractor 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 Contract, including applicable workers compensation laws, compensation statutes and regulations, and licensing laws and regulations. When requested to do so by THECB, Contractor shall furnish THECB with satisfactory proof of its compliance. Contractor 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. Contractor shall be responsible and liable for the safety and health of its employees and contractors while they are performing work for THECB under this Contract. Contractor shall provide all labor and equipment necessary to furnish the goods or perform the Services. All employees of Contractor shall be a minimum of 18 years of age and experienced in the type of work to be performed. Contractor shall permit no visitors or relatives of Contractor's employees and contractors on THECB's property unless they also are bona fide employees or subcontractors of Contractor.

4.19 Key Personnel: Contractor shall assign only qualified personnel to this Contract. Contractor, 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. Contractor 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 Contract. Subcontractors providing services under the Contract shall meet the same requirements and level of

**Education Research Center Designation
2016**

experience as required of Contractor (see "Assignment, Delegation, or Subcontracting" provision for additional conditions regarding subcontracts). No subcontract under this Contract shall relieve Contractor of responsibility for ensuring the required Services are provided. THECB, in its sole discretion, may require Contractor to remove any employee, contractor, subcontractor, or vendor of the Contractor from providing work or services under the Contract. Contractor shall replace such removed personnel expeditiously so that its services are performed on a timely basis.

- 4.20 Debts and Delinquencies to the State:** The Comptroller of the State of Texas is prohibited from issuing any payment to a person or entity that has been reported as having an indebtedness or delinquency to the State. Contractor agrees that, to the extent Contractor owes any debt or delinquent taxes to the State of Texas, any payments or other amounts Contractor is otherwise owed under this Contract shall be applied toward the debt or delinquent taxes until the debt or delinquent taxes are paid in full. Contractor agrees to comply with all applicable laws regarding satisfaction of debts or delinquencies to the State of Texas.

Contractor may verify its account status by accessing the Comptroller's website at: <http://ourcpa.cpa.state.tx.us/coa/Index.html>. If the account status message is "on vendor hold," the Contractor is advised to contact the Comptroller's Warrant Hold Section in the Division of Revenue Accounting at 1-800-531-5441.

- 4.21 Conflict of Interest:** Contractor represents and warrants that Contractor, its principals, employees, or subcontractors have no potential conflict of interest in providing Services to THECB under this Contract, and that the provision of Services under this Contract does not create an appearance of impropriety. Failure to disclose a conflict of interest, at any time during the duration of this Contract, shall be cause for termination of this Contract.

- 4.22 Financial Interests; Gifts:** Contractor represents and warrants that neither Contractor nor any person or entity that will participate financially in this Contract has received compensation from THECB or any agency of the State of Texas for participation in preparation of specifications for this Contract. Contractor represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, travel, favor or service to any public servant or employee in connection with this Contract

- 4.23 Additional Contractor's Representations:** Contractor hereby covenants, represents and warrants that Contractor (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 Contract, (2) is not a party to or bound by any agreement, obligation, or understanding which restricts or limits in any way Contractor's right to enter into this Contract or Contractor's right or ability to perform Contractor's obligations under this Contract, (3) shall not use the trade secrets, intellectual property rights, copyrights, or other proprietary rights of any third party in the

**Education Research Center Designation
2016**

performance of Contractor's obligations under this Contract without having first lawfully obtained the right, in writing, to do so, and (4) has the necessary equipment, facilities and workers to perform Contractor's obligations under this Contract.

- 4.24 **Antitrust:** Contractor represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by or affiliated with Contractor, or anyone acting for such firm, corporation, partnership, or institution has violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws.
- 4.25 **Deceptive Trade Practices; Unfair Business Practices:** Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. 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 Contractor has not been found to be liable for any such practices in such proceedings. Contractor 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
- 4.26 **Equal Opportunity:** Contractor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, religion, political belief, sex, age, or disability in the performance of this Contract.
- 4.27 **Independent Contractor:** Contractor shall be an independent contractor in all matters relating to this Contract. Contractor and its employees, agents, and subcontractors shall not be deemed or construed to be the employees or agents of THECB for any purposes whatsoever. Contractor agrees and acknowledges that Contractor, its employees and agents, and Contractor'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 Contractor 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, Contractor 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, Contractor shall have the sole authority to hire, fire, transfer, train, evaluate, discipline, pay and assign work.

Contractor agrees and acknowledges that Contractor and Contractor'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, Contractor shall promptly pay or reimburse THECB or the State of Texas for such liability or obligation.

**Education Research Center Designation
2016**

4.28 **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. Contractor certifies that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent 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>.

4.29 **Suspension and Debarment:** Contractor certifies 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, state or local government entity. If Contractor is unable to certify to any of the statements in this certification, it shall provide a written explanation to THECB for its review prior to execution of this Contract by either Party.

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

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

1. All persons employed to perform duties within Texas, during the term of the Contract; and
2. All persons (including subcontractors) assigned by the Contractor to perform work pursuant to the Contract, within the United States of America.

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

If this certification is falsely made, the Contract may be immediately terminated, at the discretion of THECB or the State of Texas and at no fault to THECB or the State, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that THECB or the State of Texas must undertake to replace the terminated Contract.

4.31 **Eligibility/Authorization to Work in the United States:** Contractor shall ensure that all personnel provided to perform work under this Contract 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. Contractor shall maintain written records on all personnel provided under the Contract and shall provide such records to THECB upon request. Failure to maintain and provide records upon request shall represent a material breach of this Contract and THECB shall have the right to terminate the Contract for cause. Contractor shall ensure this section is included in all subcontracts it is authorized by THECB to enter.

**Education Research Center Designation
2016**

4.32 Buy Texas: In accordance with Government Code, Section 2155.4441, the State of Texas requires that in the performance of this contract for services, Contractor shall purchase products and materials produced in the State of Texas when available at a price and time comparable to products and materials produced outside the state. Contractor agrees to act in accordance with Section 2155.4441 during the performance of this Contract.

4.33 Drug Free Work Place: The Contractor 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 Contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

4.34 No Commissions: THECB shall not pay any commissions to Contractor under this Contract.

4.35 Contacts: Unless otherwise agreed to in writing by the Parties, primary contacts for routine communications related to the performance of Services under this Contract are as follows:

THECB STAFF	CONTRACTOR STAFF
Program Manager: Julie Eklund	{contracted_party} {vendorContact}

4.36 Applicable Taxes: This Contract 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. Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. To the extent permitted by applicable law, THECB shall provide all applicable tax exemption certificates upon the Contractor's request.

4.37 Prohibition on Use of Funds for Lobbying: Contractor represents and warrants that THECB's payments and Contractor's receipt of appropriated or other funds under this Contract are not prohibited by Texas Government Code, Sections 556.005 or 556.008.

**Education Research Center Designation
2016**

- 4.38 **Eligibility:** Under Section 2155.004, Texas Government Code, Contractor certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
- 4.39 **Provision of Services:** Upon any request by THECB for the remittance of any Services for which THECB has made payment, Contractor shall immediately remit such Services to THECB. Any failure to remit such Services immediately shall be considered a material breach of this Contract.
- 4.40 **Force Majeure:** THECB may grant relief from performance of this Contract if Contractor 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 Contractor. The burden of proof for the need of such relief shall rest upon the Contractor. Contractor 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.
- 4.41 **Electronic and Information Resources Accessibility Standards, As Applicable per 1 TAC Chapter 213:**
- 1) 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 TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.
 - 2) Vendor shall provide 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>). Vendors 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/>.
- 4.42 **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 Contractor, by acceptance of this Contract, agrees to abide by this policy when on the property of THECB.

**Education Research Center Designation
2016**

4.43

Notice: All notices required to be given hereunder shall be in writing and shall be given by personal delivery thereof or by overnight courier or by certified or registered mail, postage prepaid, return receipt requested, to the offices shown below. Any notice served shall be deemed given on the date of hardcopy original document delivery.

THECB NOTICE ADDRESS	CONTRACTOR'S NOTICE ADDRESS
Program Manager: Julie Eklund THECB	{contracted_party} {vendorContact}

4.44

False Statements; Breach of Representations: By signature to this Contract, Contractor makes all the representations, warranties, guarantees, certifications and affirmations included in this Contract. If Contractor signs this Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Contract, Contractor shall be in default under this Contract and THECB may terminate or void this Contract for cause and pursue other remedies available to THECB under this Contract and applicable law.

4.45

Severability and Waiver: The invalidity, illegality, or unenforceability of any provision of this Contract 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 Contractor 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 Contract shall be construed to operate as a waiver of any rights under the Contract, or of any cause of action arising out of the performance of the Services required by the Contract.

**Education Research Center Designation
2016**

Appendix C –

EVALUATION CRITERIA

THECB EDUCATION RESEARCH CENTERS APPLICATION EVALUATION FORM			
Host Institution: _____		Evaluator's Name: _____	
:			
Factor	Score	Weight	Total Points
Collaboration: Rate the Applicant's use of resources outside the host institution to bring together the best management or research team for the proposed center.	1 2 3 4 5	X 8	
Applicant Resources: Does the institution possess the resources required to effectively and efficiently create, plan, conduct, secure the data, and manage the proposed center?	1 2 3 4 5	X 5	
Management Team Overall Qualifications and Experience: Does the Applicant's management team possess the overall qualifications and experience required to effectively direct, conduct, secure the data, and manage the proposed center?	1 2 3 4 5	X 10	
Similar Efforts: Rate the Applicant's overall record in organizing and managing centers similar in nature and budget size to the proposed center.	1 2 3 4 5	X 4	
Administrative Budget: Rate the Applicant's budget for administration (including the fundraising component).	1 2 3 4 5	X 4	
High Quality Research Agenda: Rate the relevance and importance of the tentative research agenda.	1 2 3 4 5	X 10	
Research Methodology: Rate the appropriateness and feasibility of the proposed research questions and methodologies.	1 2 3 4 5	X 6	
Research Staff: Rate the ability of the research staff to successfully implement the proposed research agenda.	1 2 3 4 5	X 8	
Data Security: Rate the proven ability to be FERPA-compliant and provide superior data security measures.	1 2 3 4 5	X 15	
Project Budgets: Rate the appropriateness of the budgets associated with individual research projects.	1 2 3 4 5	X 4	
Fundraising Plan: Rate the feasibility and potential effectiveness of the Applicant's fundraising plan.	1 2 3 4 5	X 8	
Fundraising Personnel: Rate the capability of the personnel responsible for implementing the proposed fundraising plan.	1 2 3 4 5	X 4	
Fundraising Experience: Rate the Applicant's experience in fundraising	1 2 3 4 5	X 4	
Total Points (Total possible = 450)			

**Education Research Center Designation
2016**

Appendix D –

LIST OF REQUIRED INFORMATION

1.	Cover Form	
2.	Table of Contents	
3.	Transmittal Letter	
4.	Abstract	
5.	Narrative	
	Research Agenda	
	Qualification of Personnel	
6.	Budget	
7.	Attachment A: Prior Research Studies	
8.	Attachment B: Curriculum Vitae	

**Education Research Center Designation
2016**

Appendix E

COVER FORM

Applicant:	
Address:	
City/State/Zip:	
Applicant Contact (Investigator):	
Phone Number:	
Fax Number:	
E-Mail Address:	
Applicant Contact (Co-Investigator):	
Phone Number:	
Fax Number:	
E-Mail Address:	
Authorized Signature of Institutional Representative authorized to submit an Application on behalf of the institution:	
Printed Name and Title:	
Date:	

Applicant Certification	
Authorized Signature:	
Printed Name and Title:	
Date:	

**Education Research Center Designation
2016**

**Education Research Center Designation
2016**

Appendix F

**CRITERIA FOR DATA SECURITY CONTROL FOR THE EDUCATION RESEARCH
CENTERS**

SUMMARY

The THECB is responsible for ERC data security and FERPA compliance based on the ERC MOU between THECB, and ERCs. Basic data security principles are discussed in the MOU. This document provides the criteria and additional implementation guidelines for ERCs. By virtue of the MOU and the nature of the data, THECB is focused on disclosure threats to data provided to ERCs. As a result these guidelines are directed to specific controls that will mitigate disclosure threats. These guidelines do not supersede any contractual provisions. They are provided to assist ERC staff in design and management of ERC applications, controls, and procedures.

SYSTEM AND DATA SECURITY CRITERIA

Contractual Compliance Criteria

Compliance with the following data security criteria is mandatory and stipulated in the anticipated ERC MOUs between the ERCs and THECB. In accordance with the MOU, the following criteria must be reviewed annually by the institution's internal audit and the findings from the audit sent to THECB for assessment of data security.

- A. The ERC has designated a staff person not involved with a research project as responsible for reviewing each research project, publication, or other release or use to ensure compliance with all security and confidentiality requirements
- B. The ERC has drafted and follows procedures to review any datasets created by a researcher to ensure that student-identifiable or other confidential information is not removed from the Research Center premises by a researcher.
- C. All student-level data or otherwise confidential data must be maintained on a secure server under the oversight of the Coordinating Board. Under no circumstance may student-level data be copied or otherwise removed from a secure server at the Research Center, except for secure off-site data backup in accordance with written procedures approved by the Joint Advisory Board. Baseline network controls are required for compliance with this contractual requirement; recommended controls are specified in the Baseline Network Controls section.
- D. Researchers or staff with access to student-level data must sign an annual confidentiality agreement that includes an undertaking to comply with FERPA and agreement not to copy or remove data. ERCs are required to maintain annual confidentiality agreements for audit purpose and copies must be sent to THECB annually.

Education Research Center Designation 2016

- E. ERC procedures must include a process for independent review of all research products to ensure against unauthorized disclosure of confidential information, including review for small cells.
- F. ERC procedures include review of all datasets and products created by a researcher prior to removal from the ERC to prevent disclosure of confidential information.
- G. ERC maintains and is able to produce system logs indicating when a researcher logged in to ERC systems and the duration of the sessions. In addition, the ERC maintains records of what data is released from the ERC systems and the JAB approved research project that the release pertains to.
- H. The ERC is required to deploy and permit operation of managed security services stipulated by the THECB. THECB will select and present the recommended managed security service to the JAB for approval. Security services anticipated are: scanning of workstations and systems for security compliance, updated anti-virus software, successful on unsuccessful login attempts and mapping of devices operating in the ERC network domain. Detailed results of any managed security service activity would be maintained as confidential, only shared with ERC management staff, internal audit, and appropriate THECB staff.
- I. An ERC must comply with all requirements of FERPA in accessing confidential information to conduct research.
- J. All physical locations at which confidential information may be accessed at an ERC must be located within Texas, at a sponsoring institution of higher education, and approved THECB.

Baseline Network Control Criteria

- A. Systems hosting confidential information must be on networks logically separated and protected from at-large university networks and the internet. THECB security reviews will require evidence of firewall implementation including network diagrams, observation, and log file output.
- B. The ERC authorizes, monitors, and controls all methods of remote access to the ERC information systems. Cryptography is used to protect the confidentiality of remote access sessions.
- C. ERC systems must constrain access to ERC data with either application controls and/or thin-client user interface that prevents bulk export of the data by researchers. Ideally, such controls offer an additional means to log access to the data. Two examples of constrained research application environments follow. ERCs implementing similar application environments would likely be approved. Baseline network controls must be approved by THECB prior to implementation in the research environment.

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Example 1: Stata Example

Education Research Center Designation 2016

Researchers access a server with Stata through an XWindows connection. The XWindows interface provides a terminal window which permits Stata queries to be run. The Stata server has a separate back-end connection to the data set, as such the data are not directly stored on the Stata server itself. Research products are stored on the Stata machine and must be retrieved by sending an e-mail request to specified research center staff.

Example 2: SAS-PC Example

Researchers are given access to a PC in a secure area. This PC or "terminal" has network access to a workstation via Remote Desktop and a dedicated network segment. The "terminal" has a restricted user interface, with the researcher only having the ability to run the remote desktop application. The researcher connects to the SAS-PC workstation from the terminal. SAS-PC is used to prepare research products. Research products remain on the SAS-PC workstation until they are approved by research center staff. Approved research products are released to the researcher, providing they are in compliance with FERPA regulations.

Baseline Network Control Approval process

The Research Centers may request a security review by THECB. THECB will arrange to visit and review baseline security controls at the site and provide recommendations and/or approval of the baseline security control environment. The ERC may also submit documentation of the ERC Baseline Network Control to the ISO at THECB for joint review and approval by THECB.

Baseline Physical and Environmental Control Criteria

The minimum recommended physical and environmental controls are as follows:

- A. The ERC limits physical access to information systems, equipment, and the respective operating environments to authorized individuals.
- B. The ERC controls all physical access points to the facility where ERC information systems reside (except areas designated as publicly-accessible).
- C. The ERC controls physical access to ERC systems by authenticating visitors before authorizing access to the facility where ERC systems reside or are in use, except for areas designated as publicly-accessible.
- D. The ERC maintains visitor access records to the facility (except for those areas designated as publicly-accessible), records retained include: name, organization, date, and time of entry and exit.

SYSTEM AND DATA SECURITY AUDIT CRITERIA

The objective of THECB review of ERC centers is to determine if controls in place provide reasonable assurance that unauthorized disclosure of confidential data will not occur, validate that TWC, TEA and THECB data assets are adequately protected by the controls, determine if

Education Research Center Designation 2016

systems and procedures are in compliance with institution policies, and make appropriate recommendations for improvements for controls that are identified as inadequate.

THECB is concerned with disclosure threats to supplied ERC data. Audit request for THECB will focus primarily on requirements concerning FERPA compliance, specifically system and data security confidentiality threats. The institution's internal audit function is in a position to provide more complete audit advice regarding compliance with TAC and other regulations. The ERC may also request security review or advice from THECB regarding compliant controls.

Audit Criteria

- The internal auditor or designated audit authority at the ERC's institution shall annually certify that the ERC is in full compliance with all terms of the MOU and all applicable state and federal laws.
- The ERC completes an internal audit, reviewing compliance with all applicable state security requirements, including DIR regulations applicable to institutions of higher education.
- Annual certification of full compliance with all requirements of state and federal laws and regulations regarding the use of confidential information for research purposes by the internal auditor of each participating institution of higher education.
- THECB may make audit requests in accordance with the MOU.

Specific Audit Observations and Evidence

This section outlines criteria and anticipated audit observations and evidence for each of the criteria. This section is intended to serve the ERC and institution's internal auditors in preparation for any security review activity performed by THECB. In accordance with the MOU, the ERC's internal audit authority must complete an audit annually and send the findings to THECB for review.

MOU Compliance Audit Criteria

- A. The ERC has designated a staff person not involved with a research project as responsible for reviewing each research project, publication, or other release or use to ensure compliance with all security and confidentiality requirements.
 - a. Determine person designated to perform review process.
 - b. Determine designated reviewer's involvement with research projects.
- B. The ERC has drafted and follows procedures to review any data sets created by a researcher to ensure that student-identifiable or other confidential information is not removed from the Research Center premises by a researcher.
 - a. Observe and verify procedures to prevent student-identifiable or other confidential information from being removed from the ERC.
 - b. Observe logs and correspondence indicating that the procedures have been in use.

**Education Research Center Designation
2016**

- C. All student-level data or otherwise confidential data must be maintained on a secure server under the oversight of THECB. Under no circumstance may student-level data be copied or otherwise removed from a secure server at the Research Center, except for secure off-site data backup in accordance with written procedures approved by the Joint Advisory Board. Baseline network controls are required for compliance with this **MOUua** (?) requirement; recommended controls are specified in the Baseline Network Controls section.
- a. Systems and network components are in compliance with Baseline Network Control recommendations.
 - b. Systems require appropriate authentication and authorization before access is permitted.
 - c. Systems maintain logs of date and time of logon for authorized users.
 - d. Any remote access means use secure authentication and secure transport.
 - e. Any remote access means restrict remote users to systems compliant with Baseline Network Controls, where remote users do not have direct access to student level data, with student-level data remaining in the ERC.
 - f. Data center or area where THECB/TEA/TWC data reside is physically secure and only authorized personnel have access to the area.
 - g. Access to ERC facilities where confidential information is handled is restricted to ERC staff.
 - h. Access to ERC systems is restricted to authorized personnel.
 - i. The ERC controls physical access to ERC systems by requiring sign-in and escort where visitors are in ERC facility areas not designated as publicly-accessible.
 - j. The ERC employs up-to-date anti-virus protection on any workstations or servers.
 - k. Inactive sessions shutdown or screen-lock after a pre-defined period of time.
- D. Researchers or staff with access to student-level data must sign an annual confidentiality agreement that includes an undertaking to comply with FERPA and an agreement not to copy or remove data. ERCs are required to maintain annual confidentiality agreements for audit purposes, and copies must be sent to THECB annually.
- a. Signed confidentiality agreements include FERPA compliance language.
 - b. Agreements include disclaimers on copy and removal of data.
 - c. Signed confidentiality agreements are maintained and available.
- E. ERC procedures include review of all data sets and products created by a researcher prior to removal from the ERC to prevent disclosure of confidential information.
- a. ERC procedures must include a process for independent review of all research products to ensure against unauthorized disclosure of confidential information, including review for small cells. The annual internal and periodic THECB security audits would verify that such a review process is in place and includes small cell review.
 - b. Logs and correspondence are produced indicating process of review is followed.
 - c. The annual internal and periodic THECB security audits will require evidence of review of research products prior to release (removal from the data center).
- F. The ERC must be able to report all access, for all users accessing student-level data sets. These logs should be retained indefinitely.

**Education Research Center Designation
2016**

- a. ERC maintains and is able to produce system logs indicating when a researcher logged in to ERC systems and the duration of the sessions.
 - b. ERC maintains records of what data is released from the ERC systems and the JAB approved research project that the release pertains to.
- G. The ERC is required to deploy and permit operation of managed security services stipulated by THECB. THECB will select and present the recommended managed security service to the JAB for approval. Security services anticipated are: scanning of workstations and systems for security compliance, updated anti-virus software, successful on unsuccessful login attempts and mapping of devices operating in the ERC network domain. Detailed results of any managed security service activity would maintained as confidential, only shared with ERC management staff, internal audit and appropriate THECB staff.
- H. An ERC must comply with all requirements of FERPA in accessing confidential information to conduct research.
 - a. ERC researchers are made aware of FERPA regulations and MOU obligations to THECB prior to being permitted access to ERC systems.
 - b. The ERC maintains a signed acknowledgement indicating that staff and researchers have read, understand, and agree to abide by the established requirements.
 - c. Researchers and staff who access student-level data will complete annual security awareness training regarding FERPA.
- I. All physical locations at which confidential information may be accessed at an ERC must be located within Texas, at a sponsoring institution of higher education, and approved by THECB. (Remote Access)
 - a. Consortia/partners are a sponsoring institution of higher ed. or approved by THECB.
 - b. Appropriate authentication methods are used to control access by remote users.

Baseline Network Control Criteria

- A. Systems hosting confidential information must be on networks logically separated and protected from at-large institution networks and the internet. THECB security reviews will require evidence of firewall implementation, including network diagrams, observation, and log file output.
 - a. Interview ERC network staff and observe network diagrams.
 - b. DIR Pen test results.
 - c. On-site network testing with permission of ERC and institution approval (THECB review).
- B. The ERC authorizes, monitors, and controls all methods of remote access to the ERC information systems. Cryptography is used to protect the confidentiality of remote access sessions.
 - a. VPN system and encryption algorithms comply with FIPS-140.
 - b. VPN connection and use is limited to authorized users – review logs and VPN configuration.
 - c. VPN system preserves application controls restricting access to student-level data.

**Education Research Center Designation
2016**

- C. ERC systems must constrain access to ERC data with either application controls and/or thin-client user interface that prevents bulk export of the data by researchers. Ideally, such controls offer an additional means to log access to the data. ERCs implementing similar application environments would likely be approved. Baseline network controls must be approved by THECB prior to implementation in the research environment.
 - a. Review application environment for compliance with limited access to student-level information.

Baseline Physical and Environmental Control Criteria

- A. The ERC limits physical access to information systems, equipment, and the respective operating environments to authorized individuals.
 - a. The ERC develops and keeps current a list of personnel with authorized access to the facility (except for areas designated as publicly-accessible).
 - b. Appropriate credentials are issued – review procedure for distribution of keys and access cards.
 - c. ERC management reviews and approves authorization credentials - review approval process for new staff.
- B. The ERC controls all physical access points to the facility where ERC information systems reside (except areas designated as publicly-accessible).
 - d. Facility has access control devices.
 - e. Institution/ERC maintains logs of access to ERC area.
- C. The ERC controls physical access to ERC systems by authenticating visitors before authorizing access to the facility where ERC systems reside or are in use, except for areas designated as publicly-accessible.
 - a. Review visitor logs, observe sign-in process, request historical logs.
- D. The ERC maintains visitor access records to the facility (except for those areas designated as publicly-accessible), records retained include: name, organization, date, and time of entry and exit.
 - a. Observe login sheets and automated entry logs if available.

**Education Research Center Designation
2016**
