

## **Sections 835.1-835.4, & 835.11 Self-Sufficiency Fund**

*The following rule amendments will be effective April 3, 2000.*

The Texas Workforce Commission (Commission) adopts amendments to §§835.1-835.3, and 835.11, and adopts new §835.4, concerning the Self-Sufficiency Fund, with changes to the proposed text as published in the December 17, 1999, issue of the Texas Register (24 TexReg 11251).

Part of the Commission's innovative system of workforce training and services throughout the State of Texas is the Self-Sufficiency Fund. Some of the primary goals of the Commission are to prepare individuals for employment, and to place and retain individuals in that employment. It is also the goal of the Commission for all participants entering a training project under the Self-Sufficiency Fund to successfully complete the project and become self-sufficient. The Commission is also required by Texas Labor Code, §301.001(b), to meet the needs of the businesses of this state for the development of a highly skilled and productive workforce as well as meeting the needs of the workers of this state for education and skills. The Commission is specifically directed to assist individuals in making the transition into the workforce from public assistance. The 75th Legislature in House Bill 1 (1997) directed the Commission to develop a Self-Sufficiency Fund to work with employers and training organizations to provide training for targeted employment of Temporary Assistance for Needy Families (TANF) recipients as a strategy to increase long-term success in retention of employment by those TANF recipients. The 76th Legislature in House Bill 343 (1999) added changes to the provisions applicable to the Self-Sufficiency Fund.

In response to the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) enacted in 1996, the Administration for Children and Families (ACF) issued final regulations for the TANF program. These regulations are based in part on the following principles: (1) Welfare reform should help people transition from welfare to work; (2) Welfare should be a short-term transitional experience, not a way of life; (3) Parents -- both custodial and noncustodial -- should receive the assistance necessary to help their families in the transition from welfare to work; (4) Solutions to poverty and welfare dependency should not be "one-size fits all;" and (5) Federal and state government should focus less attention on eligibility determinations and place more emphasis on program results. In light of these principles, it is the intent of the Commission to make the Self-Sufficiency Fund available to more people who are at risk of becoming dependent on public assistance. The Commission intends that not only TANF recipients but also those individuals at risk of becoming dependent on public assistance be eligible for services under the Self-Sufficiency Fund. While eligibility for Self-Sufficiency Fund services is open to

TANF recipients as well as individuals who are at risk of becoming dependent on public assistance, the first priority of the Self-Sufficiency Fund is to assist current TANF recipients in obtaining the education and skills necessary to enter employment and become independent of public assistance. The rules describe the operation of the Self-Sufficiency Fund and implement the provisions of the recent legislation.

Comments were received from the Texas Youth Commission, Valley Initiative for Development & Advancement (VIDA), J. L. Steel Inc., Texas Engineering Extension Service, Renaissance Computer Group, Granite Construction Company, Montgomery College, Gulf Coast Career Center, Association of General Contractors (AGC) of Texas, m3 The Healthcare Learning Company, Center for Public Policy Priorities, Capital IDEA, Austin Community College, and two State Representatives. The majority of the commenters supported the changes and some commenters requested additional clarification. The specific comments are set forth as follows:

Comment: The majority of the commenters supported the expansion of eligibility to include those individuals at risk of becoming dependent on public assistance. One of these commenters stated that by enhancing the scope of the Self-Sufficiency Fund, recruiting and placement problems would be greatly reduced. This commenter also stated that a larger candidate pool with diverse capabilities would assist in pulling industry partners into a collaborative effort that would lead to more job placements. Another commenter suggested that enhancing the program scope, would greatly reduce recruiting and placement problems. Several commenters suggested criteria for defining individuals at risk of becoming dependent on public assistance as one or more of the following: food stamp recipients, Food Stamp Employment and Training clients, noncustodial parents under Welfare-to-Work (WtW), youth and adult ex-offenders, incarcerated youth offenders, homeless individuals, military veterans, individuals living below a set percentage of federal poverty guidelines, Medicaid and Social Security Insurance (SSI) recipients, underemployed individuals (as meaning those persons earning wages less than \$7.50 hourly), and individuals living below certain wage guidelines. Another commenter suggested using changes in household composition or a crisis in the household (such as a household that has received domestic violence services, loss of a primary wage earner during the last 12 months, or those waiting for housing assistance), continuing poverty (such as those individuals that have received TANF at some point during the last 24 months), and inadequate education (such as individuals lacking a high school diploma or a GED) or inadequate work history (such as those receiving inadequate wages or in intermittent work) as the criteria.

Response: The Commission appreciates the commenters' support and agrees that the expansion of eligibility will help make the Self-Sufficiency Fund available to more people who are at risk of becoming dependent on public assistance. The Commission

intends that the Self-Sufficiency Fund should be available to help avoid the risk of individuals becoming dependent on public assistance, as well as assist individuals in making the transition into the workforce from public assistance. The Commission agrees with clarifying the definition of individuals at risk of becoming dependent on public assistance based on several of the commenters' recommendations to provide more consistency in interpreting the proposed rules. The Commission believes that some of the groups of individuals that commenters suggested should not be included in the definition of individuals at risk because other funds are available to assist them, such as those funds available to help youth offenders and military veterans. As such, the definition of individuals at risk of becoming dependent on public assistance is as follows: "An individual who is a member of a food stamp household." The Commission believes that individuals should receive the assistance necessary to help make the transition from welfare to work. In addition, there is an existing process to determine who is receiving food stamps that already would have been performed and would not require the creation of a new eligibility review process.

Comment: One commenter suggested that the individuals "at risk" criteria should be determined by the grant recipient that develops customized training projects and provides case management of the at risk individuals in these projects.

Response: The Commission believes that a statewide definition for individuals at risk is important for consistency and efficiency and that it is the Commission's responsibility to interpret the statute in light of the legislative intent to set the foundation for implementation of the Self-Sufficiency Fund.

Comment: Two commenters suggested that the first priority for the Self-Sufficiency Fund should remain current TANF recipients. One commenter suggested that a more efficient referral process at the local level should be implemented, that the rules include a plan for client referral, that priority be given to grant applicants who have documented plans for referral of clients, and that priority should also be given to increasing wages. One commenter stated that language should be added to the preamble to clarify that while eligibility for the Self-Sufficiency Fund is being expanded, the priority population for Self-Sufficiency Fund services is current TANF recipients, particularly Tier 3 recipients.

Response: The Commission agrees and has added clarification that the first priority of the Self-Sufficiency Fund shall remain current TANF recipients, and that proposals from potential grant recipients shall be given priority based on plans that (1) target enrollment as primarily for TANF recipients, (2) contain evidence of established referral procedures or agreements, and (3) emphasize recruitment of eligible trainees. The Commission agrees and believes that a plan for client referral should be required

and that priority should be given to those projects that include such a plan. The Commission believes that the rules encourage job placement as well as higher wages.

Comment: Three of the commenters supported the revision of the definition of community-based organization (CBO). One commenter disagreed with removing the following language "a private nonprofit organization which provides for education, vocational education, rehabilitation, job training...." Another commenter was concerned that the new definition of CBO would no longer encompass that organization.

Response: The Commission appreciates the commenters' support. The new definition as required by the Legislature expands upon those entities that may serve as CBOs. The Commission agrees with the new definition and interprets the language as continuing to allow "private nonprofit organizations which provide for education, vocational education, rehabilitation, job training..." to participate in the Self-Sufficiency Fund as envisioned by the Legislature. The language change is not substantively different from the prior language in the former rule and does not mandate that the CBOs perform services rather than contract for them.

Comment: One commenter suggested changes to the funding system currently used in Self-Sufficiency Fund contracts.

Response: The Commission supports the current performance-based system of funding in the Self-Sufficiency Fund contracts and does not concur with the suggested changes to the funding system.

Comment: One commenter supported the new section <\*>835.4 because it is important to allow for latitude for unforeseen events.

Response: The Commission agrees that the new provision will assist the Commission in carrying out the intent of the Legislature in administering the Self-Sufficiency Fund.

Comment: One commenter requested clarification as to whether the proposed rules would allow for the application of the new federal Welfare-to-Work (WtW) regulations.

Response: The Self-Sufficiency Fund is separate from WtW, and the federal WtW rules do not apply to the Self-Sufficiency Fund. Specifically, the Self-Sufficiency Fund is based on an initiative of the Texas Legislature to focus the use of TANF funds available to the state as provided in Texas Labor Code Chapter 309, relating to the Self-Sufficiency Fund. The summarized highlights of proposed draft regulations for

the federal WtW and Child Support Amendments of 1999, forwarded by the commenter, do not apply to the TANF-funded Self-Sufficiency Fund. In April 1999, new federal TANF rules became final. The new federal TANF rules set forth broader eligibility provisions for use of TANF funds on a wide range of services to assist persons who are receiving, have received, are transitioning off of or are at risk of becoming dependent on public assistance.

The amendments and new rule are adopted under Texas Labor Code, §§301.061 and 302.002, which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of this Act.

## **SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE SELF-SUFFICIENCY FUND**

### **§835.1. Purpose and Goal.**

(a) The purpose of the Self-Sufficiency Fund is to provide training for targeted employment opportunities primarily for Temporary Assistance for Needy Families (TANF) recipients as well as those individuals at risk of becoming dependent on public assistance.

(b) The goal of the fund is to help primarily TANF recipients as well as those individuals at risk of becoming dependent on public assistance receive training leading to a job which allows them to become and remain independent of financial assistance provided under Texas Human Resources Code, Chapters 31 and 33.

(c) Priority shall also be given to proposals containing evidence of established referral procedures or agreements with Board contractors, one-stop centers, or other entities. Such evidence shall include a potential grant recipient's plan for recruiting eligible trainees.

(d) The goal of the fund may also be accomplished by providing funds for support services as necessary for participants to prepare for and participate in training activities and to make the transition from training activities to employment.

### **§835.2. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Commission--The Texas Workforce Commission or an employee or employees designated by the Director to administer the Self-Sufficiency Fund.

(2) Community-based organization (CBO)--A private nonprofit organization that is representative of a community or a significant segment of a community and that provides education, vocational education or rehabilitation, job training, or internship services or programs. The term includes a neighborhood group or corporation, union-related organization, employer-related organization, faith-based organization, tribal government, or organization serving Native Americans. The CBO must be certified as a 501(c)(3) nonprofit organization under the IRS Code of 1986, as amended. A CBO providing services, which are regulated by the state, must provide evidence of required certification, license or registration.

(3) Customized job training project--A project designed by a prospective private partner or trade union in partnership with a public community or technical college, extension service, or community-based organization for the purpose of providing specialized workforce training to prospective employees of the prospective private partner or members of the trade union with the intent of expanding the workforce.

(4) Director--The Executive Director of the Texas Workforce Commission or the Executive Director's designee.

(5) Extension service--A higher education agency and service established by the Board of Regents of the Texas A&M University System.

(6) Grant recipient--A public community or technical college, community-based organization, or the extension service awarded a grant from the Self-Sufficiency Fund.

(7) Individual at risk of becoming dependent on public assistance -- An individual who is a member of a food stamp household.

(8) Local Workforce Development Board (Board)--A Local Workforce Development Board as created under the Workforce and Competitiveness Act and certified by the Governor as provided for in Texas Government Code, §2308.261. In a Local Workforce Development Area for which a Board has not been certified, the Commission or an entity operating a career center in that area may assume the responsibilities of a Board under this chapter.

(9) Prospective private partner--A person, sole proprietorship, partnership, corporation, association, consortium, or private organization which submits a joint proposal for a customized job training project in partnership with a public community or technical college, a community-based organization, or extension service.

(10) Public community college--A state funded two-year educational institution primarily serving its local taxing district and service area in Texas and offering vocational, technical and academic courses for certification or associate degrees.

(11) Public technical college--A state funded coeducational institution of higher education offering courses of study in vocational and technical education, for certification or associate degrees.

(12) Self-Sufficiency--Employment with wages reasonably calculated to make the employee independent of financial assistance under Texas Human Resources Code, Chapters 31 and 33.

(13) TANF recipient--A person who receives financial assistance under Texas Human Resources Code, Chapter 31.

(14) Trade union--An organization, agency or employee committee, in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

(15) Training provider--A public community or technical college, community-based organization, or extension service which provides training.

### **§835.3. Uses of the Fund.**

(a) The Self-Sufficiency Fund may be used by a public community or technical college, community-based organization, or Extension Service for the following job-training purposes:

(1) to develop customized job training projects for individuals who are recipients of financial assistance under Texas Human Resources Code, Chapter 31, or individuals who are at risk of becoming dependent on public assistance;

(2) to develop customized job training projects for prospective private partners, trade unions, and small and medium-sized business consortiums participating in projects which receive funding; and

(3) for support services, deemed reasonable and necessary by the Commission for participants to prepare and participate in training activities and to make the transition from training activities to employment.

(b) Only those support services specifically described in a contract under this subsection may be charged to a contract funded with Self-Sufficiency Fund monies.

(c) The Self-Sufficiency Fund may not be used for the purchase of any proprietary or production equipment for the training project of a single employer.

#### **§835.4. Waivers.**

The executive director may suspend or waive a section of this chapter, not statutorily imposed, in whole or in part, upon a showing of good cause and a finding that the public interest would be served by such a suspension or waiver. For purposes of this section, the executive director, and not a designee of the executive director, is the only person who may approve a waiver.

### **SUBCHAPTER B. PROJECT ADMINISTRATION**

The amendments and new rule are adopted under Texas Labor Code, §§301.061 and 302.002, which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of this Act.

#### **§835.11. Project Objectives.**

The objectives of the Self-Sufficiency Fund are:

(1) to provide training for targeted employment to allow TANF recipients as well as those individuals at risk of becoming dependent on public assistance to achieve self-sufficiency;

(2) to the extent practicable, to provide Self-Sufficiency Fund services in all areas of the state; and

(3) to assist the state in its efforts to meet TANF statewide participation rates and assist individuals receiving public assistance in entering the workforce.