

60x30TX



Texas Higher Education
Coordinating Board

REQUEST FOR APPLICATIONS

TEXAS HIGHER EDUCATION COORDINATING BOARD

**Emergency and Trauma Care Education
Partnership Program**

2018-2019

Graduate Medical Education

NOTICE OF INTENT DEADLINE: 5:00 p.m. CST, November 16, 2017

INQUIRY DEADLINE: 5:00 p.m. CST, December 4, 2017

APPLICATION DEADLINE: 5:00 p.m. CST, December 7, 2017

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EMERGENCY AND TRAUMA CARE EDUCATION PARTNERSHIP PROGRAM
GRADUATE MEDICAL EDUCATION

1 OVERVIEW OF FUNDING OPPORTUNITY

1.1 PROGRAM TITLE

Emergency and Trauma Care Education Partnership Program (ETEP)

1.2 SYNOPSIS OF PROGRAM

In 2011, the 82nd Texas Legislature created the Emergency and Trauma Care Education Partnership Program to address the state's need for physicians and registered nurses with training in emergency and trauma care. ETEP will provide funding support for partnerships between graduate medical education (GME) programs and hospitals (as defined in Appendix A) in emergency and trauma care to increase training opportunities in the medical specialty/ subspecialty areas of emergency medicine, pediatric emergency medicine, and surgical critical care. The program will provide similar support for partnerships between hospitals and graduate professional nursing programs to increase the education and training experiences in emergency and trauma care for registered nurses pursuing graduate-level education.

This Request for Applications (RFA) is to support partnerships between hospitals and graduate medical education programs in emergency and trauma care (hereinafter referred to as "ETEP GME Program"). The THECB issues a separate RFA relating to support for partnerships between hospitals and graduate professional nursing programs in emergency and trauma care.

1.3 PROGRAM AUTHORITY

The statutory authority for the Emergency and Trauma Care Education Partnership Program is found in Texas Education Code, Sections 61.9801 - 61.9807, Texas Emergency and Trauma Care Education Partnership Program.

1.4 POINT OF CONTACT

All inquiries and communications concerning this RFA should be directed **in writing** via email to ETEP@theccb.state.tx.us. The point of contact for ETEP is:

Fu-An Lin, Ph.D.
Program Director
Texas Higher Education Coordinating Board
Email: ETEP@theccb.state.tx.us

No contact shall be made with other THECB personnel regarding this RFA. Failure to comply with this requirement may result in the disqualification of an Application.

2 AWARD SUMMARY

2.1 AVAILABLE FUNDING

For the 2018-2019 biennium, ETEP grants are funded from a state appropriation of \$4,122,500. The THECB anticipates that approximately \$3,000,000 of the appropriated funds will be available to provide grant awards ("Grant") to selected ETEP GME Programs.

2.2 ALLOCATION OF FUNDING

The funding available to support ETEP GME Programs will be allocated among selected Applicants based on the number of additional residents or fellows who will participate in each program. Section 11 of this RFA describes the selection process for funding.

2.3 GRANT PERIOD

The Grant Period will begin upon the execution of the Notice of Grant Award (NOGA) or on July 1, 2018, whichever is later, and will conclude on June 30, 2020, for a 24-month Grant Period. Awarded Applicants will have contractual obligations that extend beyond the Grant Period. At the THECB's sole discretion, the second year of funding (July 2019 - June 2020) will be contingent upon the Awarded Applicant using the grant funds according to the grant contract terms and conditions, meeting contractual deadlines, and producing expected outcomes and results in the first year (July 2018 - June 2019) of the Grant Period.

2.4 APPLICATION TIMELINE

The application process for this RFA is anticipated to proceed according to the published application timeline. The THECB reserves the right to revise this timeline or any portion of this RFA by publishing an addendum.

Dates	Application Steps
November 16, 2017	Notice of Intent (NOI) Deadline
November 21, 2017	NOI Response from THECB
December 4, 2017	Inquiry Deadline
December 7, 2017	Application Deadline
December 11, 2017	Confirmation of Application Receipt by THECB
January 26, 2018	THECB Announces Grant Awards
Upon execution of the NOGA or July 1, 2018, whichever is later	Grant Period Begins

3 PROGRAM PURPOSE

The THECB is seeking to award Grants to ETEP GME Programs to support partnerships between hospitals and graduate medical education programs in emergency and trauma care. ETEP Grants will support the provision of increased training opportunities for physicians in emergency and trauma care through the use of existing expertise and facilities at the participating hospitals and programs. This RFA is seeking Applications from nationally accredited graduate medical education programs in the medical specialty/subspecialty areas of emergency medicine, pediatric emergency medicine, and surgical critical care.

4 ELIGIBILITY INFORMATION

4.1 ELIGIBLE GRADUATE MEDICAL EDUCATION PROGRAMS

An eligible graduate medical education program for this RFA:

- A. is a nationally accredited post-medical degree (M.D.) or doctor of osteopathic medicine (D.O.) non-military residency or fellowship program in Texas in the medical

specialty/subspecialty area of emergency medicine, pediatric emergency medicine, or surgical critical care, and

- B. prepares the physician to earn a board certification by the American Board of Medical Specialties or the Bureau of Osteopathic Specialties in emergency medicine, pediatric emergency medicine, or surgical critical care.

4.2 ELIGIBLE APPLICANT

An Eligible Applicant (Eligible Applicant or Applicant) under this RFA:

- A. is an eligible graduate medical education program, as defined in Section 4.1, or
- B. is a sponsoring institution, as defined in Appendix A, that operates an eligible graduate medical education program defined in Section 4.1.

4.3 ETEP FUNDING PRIORITY

To maintain the program expansion supported by ETEP, an Eligible Applicant that has previously received ETEP funding from the THECB for one or more ETEP grant cycles will be given the priority for funding during the 2018-2019 biennium. An Applicant with a GME program in an ETEP-eligible medical specialty/subspecialty area that receives funding support from another grant program administered by the THECB will not receive funding priority.

4.4 MAXIMUM NUMBER OF SUBMISSIONS BY APPLICANT

An Eligible Applicant may submit a maximum of one (1) Application for each eligible medical specialty/subspecialty area.

5 NOTICE OF INTENT TO APPLY REQUIREMENT

Applicants are required to submit a Notice of Intent to Apply by 5:00 p.m. CST, November 16, 2017, via email to ETEP@thecb.state.tx.us. Applications for which a Notice of Intent to Apply has not been submitted will not be considered for a Grant Award.

The Notice of Intent to Apply form is available on the ETEP website:

<http://www.thecb.state.tx.us/ETEP>.

5.1 THECB RESPONSE

Based on the information included in the Notice of Intent to Apply, the THECB will make the final determination as to whether or not the proposed ETEP GME Program qualifies for the RFA. The THECB will notify the Applicant via return email by November 21, 2017, to indicate if the Applicant shall proceed to submit an Application.

If an Applicant does not receive such communication from the THECB, contact the Point of Contact listed in Section 1.4 immediately. The Applicant will be required to provide proof of timely submission of the Notice of Intent to Apply. The THECB shall not be responsible for Notices of Intent to Apply that are captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by THECB or Applicant anti-virus or other security software.

6 APPLICATION SUBMISSION

Applications must be completed according to the guidelines in Section 10. Applicant must submit a completed Application via email to ETEP@theccb.state.tx.us no later than 5:00 p.m. CST, December 7, 2017. Please refer to the ETEP website (www.theccb.state.tx.us/ETEP) to view and download the ETEP Application Form. Applications must be submitted by an authorized agent of the Applicant institution via email to ETEP@theccb.state.tx.us to the Point of Contact listed in Section 1.4.

Late or incomplete Applications and Applications submitted to an address different from the specified ETEP email will not be accepted. No mailed, hand-delivered, or faxed Applications will be accepted.

The THECB will confirm receipt of the submitted Application, including Attachments listed in Section 10.8, via email by December 11, 2017. If an Applicant does not receive such confirmation from the THECB, contact the Point of Contact listed in Section 1.4 immediately. The Applicant will be required to provide proof of timely submission of the Application. The THECB shall not be responsible for Applications that are captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by THECB or Applicant anti-virus or other security software.

7 INQUIRIES

All inquiries shall be directed to the Point of Contact listed in Section 1.4 at ETEP@theccb.state.tx.us. Applicant must not discuss an Application with any other THECB employee unless authorized by the THECB Point of Contact.

Questions must be submitted via email by 5:00 p.m. CST, December 4, 2017. All responses by the THECB must be in writing in order to be binding. Any information deemed by the THECB to be important and of general interest or which modifies requirements of the RFA shall be posted in the form of an addendum to the RFA to the THECB website and may be sent to all Applicants that have submitted a Notice of Intent or an Application. All Applicants must acknowledge receipt of all addenda, if any, to this RFA by returning a signed copy of each addendum with the submitted Application.

8 ETEP PROGRAM REQUIREMENTS

8.1 ELIGIBLE PROGRAM DIRECTOR

Each Eligible Applicant shall name a program director who will be the primary recipient of communication relating to ETEP from the THECB. Changes to the program director position for each funded ETEP GME Program require notification to and acknowledgement from the THECB.

8.2 FUNDING RESTRICTION

ETEP funds shall not be substituted or supplanted for any other funds available to the Applicant or any collaborating partners.

8.3 PARTNERSHIPS

An ETEP GME Program is required to include a partnership consisting of one or more eligible graduate medical education programs in the state of Texas and one or more hospitals (as defined in Appendix A). Existing facilities and expertise of the hospitals and graduate medical education programs participating in the partnership must be utilized.

9 ALLOWABLE COSTS AND RESTRICTIONS

Awarded ETEP funds must be expended only on costs related to the operation of an ETEP GME Program. Only reasonable costs in categories A through D identified in Section 9.2 are allowable. Cost categories listed in Section 9.3 are prohibited and shall not be paid with ETEP funds.

9.1 COST SHARING OR MATCHING REQUIREMENTS

There is no matching funds requirement. However, Awarded Applicants and collaborating partners shall share in the cost of supporting the ETEP GME Program.

9.2 ALLOWABLE COST CATEGORIES

- A. *Resident and Fellow Compensation* – Salaries/stipends and benefits are allowed for the residents and fellows participating in the awarded ETEP GME Program.
- B. *Faculty Compensation* – Costs for faculty funded under ETEP must be related to the ETEP GME Program and reflect salaries appropriate to the tasks that will be performed and to the length of time spent on ETEP-related activities.
- C. *Support Personnel Compensation* – Costs for support personnel and staff funded under ETEP must be related to the ETEP GME Program and reflect salaries appropriate to the tasks that will be performed and to the length of time spent on ETEP-related activities.
- D. *Resident and Fellow Professional Liability Insurance* – Costs are allowed for professional liability insurance related to professional activities of residents or fellows within the participating residency or fellowship program.

9.3 PROHIBITED COSTS

The following types of costs shall not be paid with ETEP funds:

- Costs incurred prior to the Grant Period
- Stipends or fringe benefit payments for residents or fellows subsidized by the military, Public Health Service, or other federal agencies
- Salaries or other stipends that are calculated at a higher pay rate than that which an individual normally receives in a position (or in a similar position) at the sponsoring institution, participating sites, or collaborating partners
- Resident or fellow recruiting expenses, including travel, entertainment, and relocating expenses
- Equipment or supplies
- Rent paid to a public medical school
- Construction or remodeling of facilities, architect's fees, and feasibility studies
- Application fees and costs related to institutional or programmatic accreditation

- Food and beverages
- Domestic and foreign travel
- Indirect costs

10 APPLICATION FORMAT AND CONTENT

The Application Form is available on the ETEP website (www.theccb.state.tx.us/ETEP). Do not alter the Application Form; such alterations may result in the disqualification of the Applicant. Each ETEP GME Program Application must include the elements described in Sections 10.1 through 10.7, which correspond to the headings in the Application Form.

The completed Application Form shall be submitted with signatures by an authorized agent at the Applicant as one file in PDF format. The file name shall read as the initials of the Applicant. Application.pdf (e.g., *UTSW.Application.pdf*). All Attachments specified in this section of the RFA, which are considered a part of the ETEP grant application, should be prepared and submitted according to the guidelines in Section 10.8.

10.1 PROGRAM INFORMATION

Provide general information on the ETEP GME Program, including:

- Name of the graduate medical education program
- City and ZIP code of the graduate medical education program
- Name of the sponsoring institution (see definition in Appendix A)
- Program specialty or subspecialty
- Program length in years
- Initial program accreditation date and current accreditation status
- As applicable, the first ETEP grant awarded to the program
- Contact information for the program director and an additional contact person

10.2 PROGRAM DESCRIPTION

Provide the following information:

- Describe how the ETEP GME Program will increase or continue to increase training opportunities in emergency and trauma care for physicians, how it plans to use ETEP funds, and how it will address the state's needs regarding the provision of emergency and trauma care.
- If the program plans to increase the number of residents/fellows beyond what is currently approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA), describe the process, including the timeline, for securing approval for the additional positions.
- Describe the impact, if any, of program expansion on required ratios of faculty to residents/fellows.
- Describe how the program or similar activities would continue after the Grant Period ends.

10.3 PROGRAM RESIDENCY/FELLOWSHIP POSITIONS

This section of the Application provides data about residency/fellowship positions in the ETEP GME Program. For each required data category (A, B, and C), note the following:

- Include only positions approved by the ACGME or AOA.

- Residents or fellows subsidized by the military, Public Health Service, or other federal agencies should not be included.

Required data categories:

- A. residency/fellowship positions currently approved by the ACGME or AOA
- B. filled residency/fellowship positions per year between 2011 and 2017
 - Include only residents/fellows who were a part of the program as of July 1 in each year and remained in the program for at least six months after each annual program start date. The information should align with data submitted to the THECB in the most recent CBM00R Report.
- C. resident/fellow positions projected to be filled in 2018 and 2019 during the Grant Period, including additional positions described in Section 10.2 for which the program plans to seek approval from ACGME and/or AOA.

10.4 PROGRAM BUDGET INFORMATION

The budget in the Application includes anticipated expenditures in each Allowable Cost Category (see Section 9.2) over the 24-month Grant Period. Specify the number of residency/fellowship positions for which the Applicant is requesting ETEP funding support, and provide the anticipated ETEP expenditure amount for each Allowable Cost Category under "Anticipated Use of ETEP Funds." Each Applicant shall also list available support from other sources that allow the GME program to operate at its full complement.

The THECB shall negotiate a final budget with each Awarded Applicant based on the allocation methodology in Section 11.2.2.

10.5 FINANCIAL STATEMENT

Provide financial information regarding revenues and expenditures for the ETEP GME Program during fiscal year 2017.

10.6 ACCREDITATION STATUS

As an Attachment to the Application (see Section 10.8), provide the participating graduate medical education program's most recent letter from the Accreditation Council for Graduate Medical Education or the American Osteopathic Association indicating the program's current accreditation status.

10.7 CERTIFICATION OF INFORMATION IN APPLICATION AND ATTACHMENTS

The Application, which includes applicable Attachments (see Section 10.8), must be certified by an individual who is legally authorized to bind the Applicant (i.e., a GME program or a sponsoring institution) in a contract. The completed Application and Attachments must be submitted by an individual who is authorized to submit the Application on behalf of the Applicant.

10.8 REQUIRED AND ALLOWABLE ATTACHMENTS

The following Attachments should be submitted as a single file, along with the completed Application Form, via email to ETEP@thechb.state.tx.us no later than 5:00 p.m. CST, December 7, 2017. The file name for the Attachments shall read as the initials of the Applicant. Attachment.pdf (e.g., *UTSW.Attachment.pdf*).

Applicant shall not include documents as attachments or appendices that are not specified in this section; such documents will be discarded and will not be reviewed during application evaluation.

- The most recent official accreditation letter for the participating graduate medical education program from the Accreditation Council for Graduate Medical Education or the American Osteopathic Association (see Section 10.6).
- If applicable, a letter from Applicant requesting the THECB's consideration of exceptions to specific terms and conditions described in the RFA. Any exceptions must be clearly identified by section, and the Applicant's proposed alternative must be provided. 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 alternative language, the Applicant's Application may be disqualified from further consideration. Any terms and conditions attached to an Application will not be considered unless specifically referred to in this RFA, and the Applicant's attachment of such terms and conditions to an Application may disqualify the Application. The letter must be signed by an individual legally authorized to bind the Applicant.

11 SELECTION FOR FUNDING

11.1 APPLICATION SCREENING

THECB staff shall review Applications to determine if they adhere to the ETEP grant program requirements and the funding priorities contained in the RFA. An Application must meet the requirements of the RFA and be submitted with proper authorization before or on the day specified by the THECB to qualify for further consideration. THECB staff shall notify Applicants eliminated through the screening process within 30 days of the submission deadline.

11.2 SELECTION OF APPLICANTS FOR AWARDS

This RFA is designed to issue Grant Awards that provide the best overall value to the state and in accordance with the goals of the RFA. Applicants' past performance on THECB grants and the funding priority in Section 4.3 will be considered in the selection process.

11.2.1 THECB staff shall evaluate Applications, which must demonstrate that the eligible ETEP GME Program will increase, or continue a previous increase in, the number of physicians trained in the medical specialty/subspecialty area of emergency medicine, pediatric emergency medicine, or surgical critical care.

11.2.2 The available ETEP funding will be allocated among selected Applicants based on the number of additional residents/fellows who will participate in each ETEP GME Program during the Grant Period. The funding allocation methodology includes a number of funded residency/fellowship positions for each selected Applicant and a per-position amount, both of which will be determined by the THECB. Each awarded Applicant will be allowed to utilize the final award amount in the allowable cost categories specified in Section 9.2.

11.2.3 The THECB may limit the number of Grants awarded to each Eligible Applicant.

11.2.4 If an Applicant selected for an Award fails to verify to the THECB that the awarded GME positions have been filled, funding may be reallocated to other qualified Applicants (see Section 12).

11.3 RECOMMENDATION FOR FUNDING

THECB staff shall make a recommendation of ETEP GME Programs selected to be funded to the Commissioner. The Commissioner shall make the final funding decision and submit it to THECB Board members for their final approval, as consistent with 19 Texas Administrative Code, Section 1.16.

12 DISTRIBUTION OF AWARD FUNDS

12.1 NOTICE OF GRANT AWARD

Following negotiations between the THECB and Applicants and the announcement of awards, the Awarded Applicants will receive an electronic copy of the THECB's ETEP Notice of Grant Award (NOGA; see Appendix C for an example). The Grant Period begins upon execution of the NOGA or July 1, 2018, whichever is later. Throughout this RFA, the terms "NOGA," "Contract," and "Grant" are used interchangeably.

12.2 VERIFICATION OF FILLED POSITIONS

12.2.1 To qualify for distribution of awarded funds, Awarded Applicant must submit verification to the THECB that the awarded GME residency/fellowship positions have been filled.

- A. For the distribution of Fiscal Year (FY) 2018 funds, Applicants will submit such verification during March - May 2018.
- B. For the distribution of FY 2019 funds, Applicants will submit such verification during March - May 2019.

12.2.2 If an Applicant selected for an Award fails to verify to the THECB that the awarded GME residency/fellowship positions have been filled, Applicant shall forfeit the funding awarded for any such unverified positions.

12.3 FUNDING DISTRIBUTION

12.3.1 ETEP is funded through a state General Revenue appropriation. Awarded Applicants shall receive payments under ETEP through electronic funds distribution.

12.3.2 Funding to Awarded Applicants will be disbursed in two installments. The amount of each payment will be approximately 50 percent of the total award and will be determined by the actual number of GME residency/fellowship positions verified as filled.

- A. The THECB will disburse FY 2018 funding on or about July 1, 2018, (1) upon execution of the NOGA and (2) upon verification that the awarded GME positions have been filled for the academic year commencing on or about July 1, 2018.
- B. The THECB will disburse FY 2019 funding on or about July 1, 2019, upon verification that the awarded GME positions have been filled for the academic year commencing on or about July 1, 2019.

12.3.3 The THECB is not bound by any award estimates in the RFA. Funding may be reduced or terminated if funds allocated to the THECB should become reduced, depleted, or unavailable

during the Grant Period. As consistent with the Uniform Grant Management Standards ("UGMS"), after making a finding that an Awarded Applicant has failed to perform or failed to conform to grant contract terms and conditions, the THECB may retract or reduce the grant amount for the Awarded Applicant.

12.3.4 The THECB shall not disburse awarded funds until the NOGA has been fully executed.

12.4 LAST DAY OF EXPENDITURES

12.4.1 At the discretion of the THECB, unexpended funds may carry over from each year of the Grant Period.

12.4.2 All ETEP grant expenses must be incurred by June 30, 2020. No grant extensions will be allowed.

12.5 RETURN OF UNEXPENDED FUNDS

Grantees shall return any unexpended funds within 90 calendar days after the Grant Period has ended.

13 REPORTING REQUIREMENTS

Awarded Applicants must electronically submit the items listed in Sections 13.1 - 13.3 for each funded ETEP GME Program. The THECB will provide reporting instructions. When a report submission date falls on a weekend, the submission deadline is automatically extended to the next state of Texas business day (see Appendix A, Definitions). Appendix B provides a Calendar of Events for the Grant Period, including reporting timelines.

13.1 ANNUAL GME PROGRAM REPORT

An Annual Program Report shall be submitted electronically via a secure server to the THECB in a format specified by the THECB. The report, which must be certified by the Program Director, will include, but may not be limited to, the following elements:

- A. *Annual Roster of Residents/Fellows.* The first roster shall be submitted no later than September 1, 2018, and the second roster shall be submitted no later than September 1, 2019. The rosters will include the following data for each awarded residency/fellowship position in the ETEP GME Program as of August 1: name of resident/fellow, social security number, physician license number, medical school, gender and race/ethnicity. Additional data fields will be specified by the THECB in the roster report template.
- B. *Annual Program Summary.* The first summary is due to the THECB by August 1, 2019, and the second summary is due by August 1, 2020. The summaries will provide information and updates on the operation and expansion of the ETEP GME Program, residents/fellows in the ETEP GME Program, and practice locations of residents/fellows who have finished the program.

13.2 INTERIM EXPENDITURE REPORT

No later than September 1, 2019, an Interim Expenditure Report shall be submitted electronically to the THECB in a format specified by the THECB. The report will include, but may not be limited to, total expenditures by budget category and unexpended balance as of June 30, 2019. The report must be certified by an authorized institutional representative.

13.3 FINAL FINANCIAL REPORT

No later than September 1, 2020, Awarded Applicant shall submit electronically a Final Financial Report to the THECB. The Final Financial Report shall (1) detail the actual expenditures for the grant period by purpose and amount, (2) document the unexpended balance of ETEP funds as of June 30, 2020, the end of the grant period, and (3) include a statement by the authorized institutional representative certifying the expenditures and unexpended balance.

13.4 DELINQUENT REPORTS

ETEP GME Programs with any required reports deemed to be delinquent may be ineligible to receive the second year of ETEP funding, be ineligible to participate in future funding cycles, or be deemed non-compliant and subject to termination per Section 14.10.

14 PROVISIONS AND ASSURANCES

14.1 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 the THECB by any successful or unsuccessful Applicant.

14.2 APPLICATION DELIVERY AND LATE APPLICATIONS

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

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

14.3 CONFLICT OF INTEREST

14.3.1 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 Contract resulting from this RFA. If, following a review of this information, it is determined by the THECB that a conflict of interest exists, Applicants may be disqualified from further consideration.

14.3.2 *Texas Government Code, Section 2252.908 – Disclosure of Interested Parties*, added by H.B. 1295, 84th Leg. Session, R.S. (2015). The THECB may not execute a contract/grant requiring approval of the Board Chair, Vice Chair, and Committee Chair until the Business Entity has presented a certificate disclosing interested parties. "Business Entity" is defined as an entity (other than a governmental entity or state agency) through which business is conducted, regardless of whether the entity is for-profit or nonprofit. The Texas Ethics Commission (TEC) has built an online portal for vendors/grantees. Vendors/Grantees will need to create a

username and password to complete the "Certificate of Interested Parties" form. After the form has been completed, please print, sign, and notarize before sending a final copy to the THECB. The TEC portal link can be found at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

14.4 CONTRACT

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

14.4.2 Upon execution of a Contract resulting from this RFA, the term 'Applicant' shall have the same meaning as 'Awarded Applicant' or 'Grantee.' Likewise, the terms 'Request for Applications' and 'Application' shall have the same meaning as the term 'Contract' or 'Agreement.'

14.5 PAYMENT TERMS

ETEP funding will be disbursed via electronic funds distribution in two installments according to the timeline and requirements specified in Section 12. All grant-related expenses must be incurred on or prior to June 30, 2020.

At the THECB's sole discretion, the second year of grant funding will be contingent upon the Awarded Applicant using grant funds appropriately, meeting project benchmarks and contractual deadlines, and producing expected outcomes, results, and products in the first year of the Grant Period.

14.6 GRANT EXTENSION

Grant extensions are not allowed under this RFA.

14.7 PROPRIETARY INFORMATION

During the performance of a project implemented under a Contract 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 the THECB. These data shall be handled in a method that concurs with the 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 the 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.

14.8 RELEASE OF INFORMATION BY AWARDED APPLICANT

14.8.1 FERPA. Awarded Applicant shall NOT release any data that is not FERPA compliant. Failure to follow the guidelines established may result in immediate termination of the Contract.

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

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

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

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

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

14.9 RELEASE OF APPLICATION INFORMATION BY THECB

14.9.1 Public Information Act. Awarded Applicant understands and acknowledges that as a Texas state agency, the 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 the THECB in the production of documents responsive to any such requests under the Public Information Act. **Awarded Applicant is required to make any information created or exchanged with the state pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.** The THECB will make a determination whether to submit a Public Information Act request to the Attorney General. This RFA, Awarded Applicant's Application, any Grant awarded to the Applicant, and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. To the extent Grantee is subject to the Public Information Act, Grantee will notify the THECB's General Counsel within 24 hours of receipt of any third party requests for information it receives relating to this Agreement.

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

14.9.3 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.

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

14.10 AMENDMENT AND TERMINATION

14.10.1 *Amendment.* Any amendment or change to the Grant which becomes necessary shall be accomplished by a formal Contract amendment signed and approved by duly authorized representatives of Awarded Applicant and the THECB. None of the parties to the Contract will be bound by any oral statements, agreements, or representations contrary to the written Contract requirements and terms and conditions.

14.10.2 *THECB Right to Terminate for Cause.* As consistent with applicable law, the THECB may terminate the Contract, in whole or in part, immediately upon notice to Awarded Applicant, or at such later date as the THECB may establish in such notice, upon the occurrence of any material breach, including, but not necessarily limited to, non-compliance with requirements and assurances outlined in the RFA or its Section 14 "Provisions and Assurances," failure to provide accurate, timely, and complete information as required by the THECB to evaluate the effectiveness of the program, or a failure to perform any of the work under the Contract to the THECB's satisfaction within the time specified herein or any extension thereof. Any instance of non-compliance shall constitute a material breach. The THECB may, in its sole discretion, provide Awarded Applicant with an opportunity for consultation with the THECB prior to termination. If Awarded Applicant fails or refuses to perform its obligations under the Contract, the THECB may exercise any and all rights as may be available to it by law or in equity.

14.10.3 *Interpretation.* As consistent with applicable law, the Contract may be terminated in the event that federal or state laws or other requirements or a judicial interpretation renders continued fulfillment of the Contract on the part of either party unreasonable or impossible. If the parties hereto should be unable to agree upon amendment which would thereafter be needed to enable the substantial continuation of the services contemplated herein, then, upon written notification by the THECB to Awarded Applicant, the parties shall be discharged from any further obligations created under the terms of the Contract, except for the equitable settlement of the respective accrued interests or obligations incurred up to the date of

termination. The THECB reserves the right, at its sole discretion, to unilaterally amend the Contract throughout the Grant Period to incorporate any modifications necessary for the THECB's compliance, as an agency of the state of Texas, with all applicable state and federal laws, rules, regulations, requirements, and guidelines.

14.10.4 Effect of Termination. As consistent with applicable law, upon receipt of written notice to terminate, Awarded Applicant shall promptly discontinue all Services affected (unless the notice directs otherwise), refund partially or fully all Grant proceeds in accordance with written notice, and shall deliver or otherwise make available to the THECB, a summary of work products developed by Awarded Applicant under the Contract, whether completed or in process. Upon any termination, all indemnities, including without limitation those set forth in the Contract, as well as Contract provisions regarding confidentiality, records retention, right to audit, and dispute resolution, shall survive the termination of the Contract for any reason whatsoever and shall remain in full force and effect. The THECB shall be liable to Awarded Applicant for that portion of the Services authorized by the THECB and which have been completed prior to the effective date of termination, provided that the THECB shall not be liable for any work performed that is not acceptable to the THECB and/or does not meet Contract requirements.

14.10.5 In the event of termination, the THECB reserves the right to negotiate a Contract based on another Applicant's submission if it is in the state's best interest.

14.11 NOTICE

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

14.11.2 Method of Notice. All notices must be given (i) by personal delivery, (ii) by an express courier (with confirmation), (iii) mailed by registered or certified mail (return receipt requested), (iv) facsimile, or (v) electronic mail to the parties at the address specified in this Agreement, or to the address that a party has notified to be that party's address for the purposes of this section.

14.11.3 Receipt of Notice. A notice in accordance with this Agreement will be effective upon receipt by the party to which it is given or, if mailed, upon the earlier of receipt and the fifth business day following mailing.

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

14.12 ASSIGNMENT OR SUBCONTRACTING

No rights, interest, or obligations in a Contract resulting from this RFA shall be assigned, delegated, or subcontracted by Awarded Applicant without prior written permission of the THECB Point of Contact. Any attempted assignment, delegation, or subcontract by Awarded Applicant shall be wholly void and totally ineffective for all purposes unless made in conformity with this Paragraph. No delegation, assignment, or subcontract shall relieve Awarded Applicant of any responsibility under this RFA.

14.13 LIABILITY AND INDEMNIFICATION

14.13.1 LIABILITY

14.13.1.1 Neither the THECB's review, approval, or acceptance of, nor payment for any of the services provided hereunder 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 work required by the Contract.

14.13.1.2 The THECB shall have no liability except as specifically provided by law.

14.13.1.3 *Sovereign Immunity.* The THECB and Awarded Applicant stipulate and agree that no provision of, or any part of the Contract between the THECB and Awarded Applicant, or any subsequent change order, amendment, or other Contract modification 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 the THECB or Awarded Applicant beyond such liability provided for in the Texas Constitution and the Laws of the State of Texas; or (3) as a waiver of any immunity provided by the 11th Amendment or any other provision of the United States Constitution or any immunity recognized by the Courts and the laws of the United States.

14.13.2 INDEMNIFICATION

(THIS SECTION DOES NOT APPLY TO STATE AGENCIES)

14.13.2.1 *Acts or Omissions.* Grantee shall indemnify and hold harmless the State of Texas and THECB AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from, any acts or omissions of the Grantee or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in execution or performance of the Agreement. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND THE GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

14.13.2.2 *Infringements.*

(a) Grantee shall indemnify and hold harmless the State of Texas, THECB AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF GRANTEE PURSUANT TO THIS AGREEMENT. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

(b) Grantee shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) 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 without

Grantee's written approval, (iii) any modifications made to the product by the Grantee pursuant to THECB's specific instructions, (iv) any intellectual property right owned by or licensed to THECB, or (v) any use of the product or service by THECB that is not in conformity with the terms of any applicable license agreement.

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

14.13.2.3 Taxes/ Workers' Compensation/Unemployment Insurance – Including Indemnity.

(a) GRANTEE AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THECB AND/OR THE STATE SHALL NOT BE LIABLE TO THE GRANTEE, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY.

(b) GRANTEE AGREES TO INDEMNIFY AND HOLD HARMLESS THECB, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES 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 AGREEMENT. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

14.14 INSURANCE

(THIS SECTION DOES NOT APPLY TO STATE AGENCIES)

Grantee agrees to maintain at its expense insurance as required for the work being performed under this Agreement. Such insurance will protect the THECB from all claims for bodily injury, death, or property damage which may arise out of or result from the performance of the Grantee's obligations under the Agreement. Grantee represents and warrants that it will, within five (5) business days of receiving the THECB's request, provide the THECB with current certificates of insurance or other proof acceptable to the THECB of the following insurance coverage:

Standard Workers Compensation Insurance in accordance with the following statutory limits covering all personnel who will provide work under this Agreement: 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.

Grantee represents and warrants that all of the above coverage is with companies licensed in the state of Texas with at least an "A" rating from A.M. Best Company, and authorized to provide the requisite coverage. Grantee also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to the THECB. Grantee represents and warrants that it shall maintain the above insurance during the term of this Agreement. Grantee is not relieved of any liability or any other obligations assumed under this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

14.15 OWNERSHIP OF WORK

14.15.1 *Definition of work.* For the purposes of this Contract, the term "work" is defined as all reports, statistical analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, research, materials, intellectual property or other property developed, produced, or generated in connection with this Contract.

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

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

14.16 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.

14.17 INSPECTIONS/SITE VISITS

Throughout the Grant Period, the THECB and/or its representatives shall have the right to make site visits to review the ETEP GME Program operations and accomplishments.

14.18 AUDIT AND ACCESS TO RECORDS

14.18.1 Awarded Applicant acknowledges that acceptance of funds under the Contract acts as acceptance of the authority of (1) the Texas State Auditor's Office, or any successor agency, (2) the Texas State Auditor's Office or any successor agency, under the direction of the Texas Legislative Audit Committee, (3) THECB's Internal Auditor, and (4) any external auditors selected by THECB, the State Auditor's Office, or by the United States (collectively referred to as "Audit Entities"), to conduct an audit or investigation in connection with those funds. Awarded Applicant further agrees to cooperate fully with Audit Entities in the conduct of the audit or investigation, including providing all records requested. Awarded Applicant shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Awarded Applicant and the requirement to cooperate is included in any subcontract the Awarded Applicant awards.

14.18.2 Awarded Applicant shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Awarded Applicant in connection with the Contract. These records and accounts (which includes all receipts of expenses incurred by Awarded Applicant) shall be retained by Awarded Applicant and made available for inspecting, monitoring, programmatic or financial auditing, or evaluation by the 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, the date of the receipt by the THECB of Awarded Applicant's final claim for payment or final expenditure report, the date all related billing questions are resolved, or the date any related litigation issues are resolved, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed. Awarded Applicant shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Contract. Awarded Applicant and any subcontractors shall provide any Audit Entities with any information the entity deems relevant to any monitoring, investigation, evaluation, or audit.

14.18.3 Each Grantee institution shall have a system established in writing to ensure that appropriate officials provide all necessary organizational reviews and approvals for the expenditure of funds and for monitoring project performance and adherence to Grant terms and conditions under the Contract.

14.18.4 The THECB reserves the right to require the reimbursement of any over-payments determined as a result of any audit or inspection of records kept by Awarded Applicant on work performed under the Contract. Awarded Applicant shall reimburse the THECB within 30 calendar days of receipt of notice from the THECB of overpayment. Awarded Applicant's failure to comply with this "Audit and Access to Records" subsection shall constitute a material breach of the Contract.

14.19 ACCOUNTING SYSTEM

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

14.20 NON-APPROPRIATION OF FUNDS

The Contract may be terminated if funds allocated to the THECB should become reduced, depleted, or unavailable during the Contract period, and to the extent that the THECB is unable to obtain additional funds for such purposes. The THECB shall negotiate efforts as first consideration and if such efforts fail, then the THECB shall immediately provide written notification to the Awarded Applicant of such fact and the Contract shall be deemed terminated upon receipt of the notification, and neither party shall have any further rights or obligations hereunder. Awarded Applicant shall not incur new obligations after the effective date of termination and shall cancel as many outstanding obligations as reasonably practicable. The THECB shall be liable for costs incurred up to the time of such termination. Under no circumstances shall this RFA or any provisions herein be construed to extend the duties, responsibilities, obligations, or liabilities of the State of Texas or THECB beyond the then existing biennium.

14.21 REPORTING REQUIREMENTS

Awarded Applicants must electronically submit the reports listed in Section 13 by the established deadlines. The THECB will provide reporting instructions. ETEP GME Programs with any required reports deemed to be delinquent may be ineligible to receive the second year of ETEP funding, be ineligible to participate in future funding cycles, or be deemed non-compliant and subject to termination per Section 14.10.

14.22 STATE FISCAL COMPLIANCE GUIDELINES

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

14.23 APPLICABLE LAW AND VENUE

The Contract and any incorporated documents shall be governed by and construed in accordance with the laws of the State of Texas. Unless otherwise required by statute, the exclusive venue of any suit brought concerning the Contract and any incorporated documents 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.

14.24 APPLICANT RESPONSIBILITIES

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

14.25 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 skilled in the tasks necessary to meet project requirements and outcomes. Awarded Applicant shall provide to the THECB prior written notice of any proposed change in key personnel involved in accomplishing the Grant Award. No substitutions of key personnel will be made without the prior written consent of the THECB. All requested substitutes must be submitted to the THECB, together with the information about the substitutes' qualifications. The key personnel that will be assigned to work on the Grant Award are considered to be essential to accomplishing the project.

14.26 ELIGIBILITY/AUTHORIZATION TO WORK IN THE UNITED STATES

Awarded Applicant shall ensure that all personnel provided to perform work under the 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, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Awarded Applicant shall maintain written records on all personnel provided under the Contract and shall provide such records to the THECB upon request. Failure to maintain and provide records upon request shall represent a material breach of this Contract and the THECB shall have the right to terminate the Contract for cause. Awarded Applicant shall ensure this section is included in all subcontracts it is authorized by the THECB to enter.

14.27 SUPPLANTING PROHIBITION

A Grant Award may not be used to replace federal, state, or local funds.

14.28 CARRYOVER FUNDS

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

14.29 TIME AND EFFORT RECORDKEEPING

For those personnel whose salaries are prorated between or among different funding sources, time and effort records will be maintained by Awarded Applicant that confirm the project work provided within each funding source. Awarded Applicant must adjust payroll records and expenditures based on this documentation. This requirement applies to all projects, regardless of funding sources, unless otherwise specified.

14.30 FORMS, ASSURANCES, AND REPORTS

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

14.31 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 response.

Neither Applicant nor the firm, corporation, partnership, entity, or institution represented by Applicant or anyone acting for such firm, corporation, partnership, entity, or 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.

The THECB is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing Applicants with the Federal General Services Administration's System for Award Management (SAM, <http://www.sam.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Applicant is not so prohibited from entering into this contract. Moreover, Applicant further certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Applicant is in compliance with the State of Texas statutes and rules relating to procurement and that Applicant 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>.)

14.32 FORCE MAJEURE

The THECB may grant relief from performance of this Contract if Awarded Applicant 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 Awarded Applicant. The burden of proof for the need of such relief shall rest upon the Awarded Applicant. Awarded Applicant 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.

14.33 DISPUTE RESOLUTION

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

14.34 SEVERABILITY AND STRICT PERFORMANCE

The invalidity, illegality, or unenforceability of any provisions of the Contract shall in no way affect the validity, legality, or enforceability of any other provisions.

Each and every right granted to the THECB and Awarded Applicant 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 the THECB or Awarded Applicant 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. The THECB's review, approval, acceptance of, or payment for any of the services provided in the Contract shall not be construed to operate as a waiver of any of its rights under the Contract, or of any cause of action arising out of the performance of the services required by the Contract.

APPENDIX A: DEFINITIONS

The following definitions shall apply:

1. **Applicant** – A Texas graduate medical education program or a sponsoring institution, per eligibility defined in Section 4 of this RFA, submitting an Application in accordance with the terms and conditions of this RFA.
2. **Application** – The final document, including all pertinent Attachments specified in Section 10.8 of the RFA, submitted by an Applicant to the THECB in response to and in accordance with the terms and conditions of this RFA.
3. **Awarded Applicant** – The successful recipient ultimately awarded a Grant by the THECB and responsible for performing all services and activities required to fully comply with Grant performance requirements and all Grant terms and conditions.
4. **ETEP** – The Emergency and Trauma Care Education Partnership Program.
5. **Fellow** – A physician who has completed training in at least one residency program and is pursuing additional clinical training leading to a certificate of special competence.
6. **FERPA** – The Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g, and the federal regulations, 34 CFR Part 99, which is a federal law regarding 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 agency or 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.
7. **Graduate Medical Education (GME)** – A nationally accredited post-medical degree (M.D.) or post-doctor of osteopathic medicine degree (D.O.) program that prepares physicians for the independent practice of medicine in a specific specialty area, also referred to as residency training or fellowship. The term also applies to the period of didactic and clinical education in a medical subspecialty that follows the completion of education in a recognized medical specialty and that prepares physicians for the independent practice of medicine in that subspecialty, also referred to as a fellowship.
8. **Hospital** – As defined in Texas Health & Safety Code, Section 241.003, a Texas health care facility, which includes a hospital owned, maintained, or operated by the state, but does not include a facility that is owned, maintained, or operated by the federal government or an agency of the federal government.
9. **Medical School** – A public or independent medical institution that awards the doctor of medicine (M.D.) or doctor of osteopathic medicine (D.O.) degree, as defined in Texas Education Code, Section 61.003(5) or Section 61.501(1).
10. **NOGA** – Notice of Grant Award, a term applied to the official document used by the THECB to notify grantees that funding has been approved. NOGAs include such information as the award amount, project and budget periods, and specific award terms and conditions. The NOGA creates a legally binding agreement between the parties and incorporates the RFA and the Application into the agreement.

Throughout this RFA the terms "NOGA," "Contract," and "Grant" are used interchangeably.

11. **PGY** – Refers to a resident's or fellow's current year of accredited graduate medical education. This designation may or may not correspond to a resident's or fellow's year in a particular program. For example, a resident in pediatric emergency medicine could be in the first program year of the pediatric emergency medicine program but in his/her fourth graduate year of graduate medical education (including the three prior years of pediatrics).
12. **Program Director** – The one physician designated with authority and accountability for the operation of the residency/fellowship program and who will serve as the primary contact for the THECB regarding ETEP matters.
13. **Resident Physician** – A physician contractually obligated to a Texas medical school, licensed hospital, or non-profit corporation to receive residency education and training for a specified period of time.
14. **Sponsoring Institution** – The organization (or entity) that assumes the ultimate financial and/or academic responsibility for a GME program. The sponsoring institution has the primary purpose of providing educational programs and/or health care services. Examples include a university, a medical school, a hospital, a school of public health, a health department, a public health agency, an organized health care delivery system, a medical examiner's office, a consortium, and an educational foundation.
15. **State of Texas Business Days** – Monday through Friday, 8:00 a.m. to 5:00 p.m. Central Time, except for scheduled State of Texas and national holidays.
16. **THECB** – The Texas Higher Education Coordinating Board, an agency of the State of Texas.

APPENDIX B: CALENDAR OF EVENTS

December 7, 2017	Application Deadline
January 26, 2018	THECB Announces Grant Awards
March 1, 2018	Position Verification for FY 2018 Begins
July 1, 2018	Grant Period and FY 2018 Funding Disbursement Begin
September 1, 2018	First Roster of Residents/Fellows Is Due to THECB
March 1, 2019	Position Verification for FY 2019 Begins
July 1, 2019	FY 2019 Funding Disbursement Begins
August 1, 2019	First Program Summary Is Due to THECB
September 1, 2019	Second Roster of Residents/Fellows Is Due to THECB Interim Expenditure Report Is Due to THECB
June 30, 2020	Grant Period Ends-All Grant Expenses Must Be Incurred*
August 1, 2020	Second Program Summary Is Due to THECB
September 1, 2020	Final Financial Report Is Due to THECB

*Unexpended funds must be returned to the THECB within 90 calendar days.

APPENDIX C: SAMPLE NOTICE OF GRANT AWARD



Texas Higher Education
Coordinating Board

THECB Award Number: {bmsReference}

Appropriation Year: {encumbrance AY}

Notice of State Grant Award

to

{contracted_party}

Grantee Name and Address: {contracted_party} {contractedPartyAddress} {contractedPartyCity}, {contractedPartyState} {contractedPartyZip}	Grant Title: Emergency and Trauma Care Education Partnership Program - Graduate Medical Education
	Amount of Award: \$ {total_\$}
	Division: Academic Quality and Workforce
	Term of Grant: July 1, 2018 - June 30, 2020
	Payment Method: Approximately 50% upon 1) verification of filled funded positions for FY 2018 and 2) contract execution; approximately 50% upon verification of filled funded positions for FY 2019 The advancement of funds is necessary to enable the Grantee to fully perform the services described in its Application.

Authority: **Texas Education Code, Sections 61.9801 - 61.9807**

The Texas Higher Education Coordinating Board's ("THECB") and the Grantee's (collectively, referred to as "the parties") execution of this Notice of Grant Award creates a legally binding agreement between the parties. The Program requirements (e.g., objectives, scope, budget, methodology) as stated in (1) the original Request for Application ("RFA") including any addenda issued, (2) addenda to the Grantee's Application (if any), and (3) Grantee's Application are incorporated into and made a part of this Notice of Grant Award for all purposes, supersede any prior or contemporaneous understandings between the parties pertaining to the subject matter herein whether oral or written, and collectively constitute the entire agreement between the parties. In the event of a conflict in the language contained in the incorporated documents, conflicts shall be resolved by reference to the language contained in the documents in the order listed above.

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

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